

IN THE SUPREME COURT OF THE STATE OF NEVADA

DR. VINCENT M. MALFITANO, AN
INDIVIDUAL; VIRGINIA CITY
GAMING, LLC, A NEVADA
LIMITED LIABILITY COMPANY;
AND DELTA SALOON, INC., A
NEVADA CORPORATION,

Appellants,

v.

COUNTY OF STOREY, ACTING BY
AND THROUGH THE STOREY
COUNTY BOARD OF COUNTY
COMMISSIONERS; AND STOREY
COUNTY LIQUOR BOARD,

Respondents.

Supreme Court No. 70055

District Court Case No. 15-00008-E
Electronically Filed
Sep 29 2016 02:34 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

Appeal from the First Judicial District Court,
State of Nevada, County of Storey
Honorable James E. Wilson, Jr.

JOINT APPENDIX
VOLUME I
PAGES 1-235

Matthew B. Hippler (SBN 7015)
Scott Scherer (SBN 87)
Brandon C. Sendall (SBN 13246)
HOLLAND & HART LLP
5441 Kietzke Lane, Second Floor
Reno, Nevada 89511
Tel. (775) 327-3000
Fax (775) 786-6179
Attorneys for Appellants

Anne Langer (SBN 3345)
Storey County District Attorney
Keith Loomis (SBN 1912)
Deputy District Attorney
P.O. Box 496 201 South C Street
Virginia City, NV 89440
Tel. (775) 847-0964
Fax (775) 847-1007
Attorneys for Respondents

Chronological Table of Contents to Appendix

<u>Document</u>	<u>Date</u>	<u>Vol.</u>	<u>Pages</u>
Petition for Writ of Mandamus with exhibits	10/13/2015	1	JA000001- JA000235
Ex Parte Motion for Temporary Restraining Order and Preliminary Injunction with exhibits	10/14/2015	2	JA000236- JA000471
Respondents' Answer and Return to Verified Petition for Writ of Mandate	10/19/2015	3	JA000472- JA000492
Respondents' Opposition to Motion for TRO and Preliminary Injunction	10/19/2015	3	JA000493- JA000496
Amended Order Denying TRO and Preliminary Injunction	11/10/2015	3	JA000497- JA000510
Petitioners' Brief In Support of Verified Petition for a Writ of Mandamus	11/23/2015	3	JA000511- JA000606
Petitioners' Brief In Support of Verified Petition for a Writ of Mandamus Exhibit 7 filed under seal - Declaration of Cyndy Arnold Regarding Petitioners' Brief	11/23/2015	3-5	JA000607- JA000717
Respondents' Supplemental Brief in Opposition to Verified Petition for Writ of Mandate	12/8/2015	5	JA000718- JA000745
Petitioners' Reply Brief to Respondents' Supplemental Brief	12/9/2015	5	JA000746- JA000755
Order Remanding to Storey Co. Board of County Commissioners and Storey Co. Liquor Board	12/17/2015	5	JA000756- JA000758
Transcript of Storey County Board of County Commissioners Open Meeting	1/11/2016	5	JA000759- JA000775
Stipulation and Order Regarding Briefing	1/16/2016	5	JA000776- JA000778
Petitioners' Brief Pursuant to Order Regarding Briefing Dated January 21, 2016	1/22/2016	5	JA000779- JA000793
Respondents' Supplemental Brief After Remand of Storey County	1/22/2016	5-6	JA000794- JA000844
Petitioners' Reply Brief Pursuant to Order Pursuant to Order Regarding Briefing Dated January 21, 2016	1/27/2016	6	JA000845- JA000851
Respondents' Reply to Petitioners' Brief Pursuant to Order Regarding Briefing Dated January 21, 2016	1/27/2016	6	JA000852- JA000857
Order Denying Petition for Writ of Mandate	3/7/2016	6	JA000858- JA000870
Notice of Entry of Order Denying Petition for Writ of Mandamus	3/9/2016	6	JA000871- JA000885
Petitioners' Objection to Order Denying Petition for Writ of Mandamus	3/16/2016	6	JA000886- JA000912
Respondents' Response to Petitioners' Objection to Order Denying Petition for Writ of Mandamus Dated March 7, 2016	3/24/2016	6	JA000913- JA000925

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Appellants' Notice of Appeal	3/25/2016	6	JA000926- JA000928
Transcript of Hearing on Motion for Temporary Restraining Order and Preliminary Injunction with exhibits	6/20/2016	6	JA000929- JA001034

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

Matthew B. Hippler (SBN 7015)
Scott Scherer (SBN 87)
Brandon C. Sendall (SBN 13246)
HOLLAND & HART LLP
5441 Kietzke Lane, Second Floor
Reno, Nevada 89511
Tel.: 775-327-3049
Fax: 775-786-6179
mhippler@hollandhart.com
sscherer@hollandhart.com
bcsendall@hollandhart.com

Attorneys for Petitioners

**IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR STOREY COUNTY**

DR. VINCENT M. MALFITANO, an
individual; VIRGINIA CITY GAMING,
LLC, a Nevada limited liability company;
and DELTA SALOON, INC., a Nevada
corporation,

Petitioners,

vs.

COUNTY OF STOREY, acting by and through
the STOREY COUNTY BOARD OF
COUNTY COMMISSIONERS and the
STOREY COUNTY LIQUOR BOARD,

Respondent.

Case No. 15 OC 00008 IE
Dept. No. II

VERIFIED PETITION FOR WRIT OF MANDAMUS

Petitioners, Dr. Vincent M. Malfitano ("Dr. Malfitano"), Virginia City Gaming, LLC
("VCG") and Delta Saloon, Inc. (collectively, Dr. Malfitano, VCG and Delta Saloon, Inc. are
referred to herein as "Petitioners"), by and through their attorneys of record, Matthew B.
Hippler, Scott Scherer, and Brandon C. Sendall of the law firm of Holland & Hart LLP,
pursuant to NRS 34.150, *et seq.*, hereby petition this Court for a Writ of Mandamus.

///

///

///


2015 OCT 13 PM 3:40

CLERK

VS
CLERK

1 This Petition is made based upon the Exhibits and Affidavits attached hereto, the
2 following Memorandum of Points and Authorities, and any oral argument this Court may
3 allow.

4 DATED this 13th day of October 2015.

5 
6 Matthew B. Hippler (SBN 7015)
7 Scott Scherer (SBN 87)
8 Brandon C. Sendall (SBN 13246)
9 HOLLAND & HART LLP
5441 Kietzke Lane, Second Floor
Reno, Nevada 89511
Tel. (775) 327-3000 / 786-6179 Fax

10 Attorneys for Petitioners
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

MEMORANDUM IN SUPPORT OF VERIFIED PETITION
FOR WRIT OF MANDAMUS

I. INTRODUCTION

This case centers around two decisions made on October 6, 2015: one rendered by the Storey County Liquor Board (the "Liquor Board"), and the second rendered by the Storey County Board of County Commissioners (the "Commission"). First, the Liquor Board denied Petitioners' applications for liquor licenses at its properties commonly known as the Delta Saloon ("Delta"), located at 18 North C Street, Virginia City, Nevada and the Bonanza Saloon ("Bonanza"), located at 27 South C Street, Virginia City, Nevada (collectively, the "Properties"). Second, the Commission denied VCG's and Dr. Malfitano's application for a general business license at the Bonanza.¹

As explained below, both denials of Petitioners' license applications were founded in the Commission members' disapproval of Dr. Malfitano and his decision to retain ownership of the Properties (which had historically been operated as gaming establishments) after being denied gaming licenses by the Nevada Gaming Commission. The clear animus expressed toward Dr. Malfitano's planned non-gaming business operations at the Properties during the Commission's October 6, 2015 meeting demonstrates that the Liquor Board and the Commission acted out of pure animosity toward and disapproval of Petitioners, rather than applying the appropriate legal standard under the Storey County Code. As a result, the denials were clearly arbitrary and capricious and were based on an erroneous legal standard.

Finally, two of the three Storey County Commissioners—each of whom own competing businesses in Virginia City located adjacent to the Delta and Bonanza—should have recused themselves from voting on Petitioners' applications due to their financial conflict of interest.

¹ The Liquor Board presides over all applications for liquor licenses, while the Commission presides over general business license applications. The Liquor Board is a four-member board comprised of the three-member Board of County Commissioners along with the Storey County Sheriff. Thus, Petitioners' applications for liquor licenses were denied by the Liquor Board, while VCG's and Dr. Malfitano's application for a general business license at the Bonanza was denied by the Commission.

1 For all of these reasons, Petitioners respectfully request that this Court issue a writ of
2 mandamus: 1) reversing the Liquor Board's denial of Petitioners' applications for county
3 liquor licenses and reversing the Commission's denial of VCG's application for a general
4 business license; and 2) compelling the Liquor Board and the Commission to approve such
5 applications.

6 **II. FACTUAL BACKGROUND**

7 **A. Dr. Malfitano's Purchase of the Properties.**

8 Dr. Malfitano is the sole owner of VCG and Delta Saloon, Inc., which operate the
9 Bonanza and the Delta in Virginia City, Nevada. Dr. Malfitano is originally from Antioch,
10 California, where he has built and operated several small businesses throughout his lifetime,
11 and where he continues to operate the Cypress Meadows Assisted Living facility in Antioch.
12 He currently splits his time between Antioch and Northern Nevada.

13 Dr. Malfitano purchased the Properties on or about October 1, 2014 from long-time
14 Virginia City resident, Angelo Petrini. Upon purchasing the Properties, Petitioners leased the
15 Properties to a third-party gaming operator, Dewing Gaming Management, LLC ("Dewing"),
16 which ran all operations at the Properties pursuant to two separate lease agreements (the
17 "Leases"). The lease arrangement with Dewing was necessary because Dr. Malfitano had not
18 been licensed by the Nevada Gaming Commission to operate a gaming establishment. While
19 the Dewing Leases were in place, Petitioners were seeking to obtain gaming licenses from the
20 Nevada Gaming Commission, with the ultimate goal of taking over operations at both
21 Properties upon licensure. Unfortunately, Petitioners were denied gaming licenses.

22 With gaming no longer an option, Petitioners altered the business plans for the
23 Properties, and in September of 2015, Petitioners provided Dewing with notice of intent to
24 terminate the Leases and to take over operations at the Properties beginning on October 1,
25 2015. In anticipation of this change, Petitioners filed applications for general business licenses
26 and liquor licenses with the Commission and the Liquor Board.

27 ///

28 ///

1 **B. The September 1, 2015 Storey County Board of Commissioner's Meeting.**

2 The Commission initially considered Petitioners' applications for general business and
3 liquor licenses at its September 1, 2015 public meeting. *See* Minutes of September 1, 2015
4 public meeting, a true and correct copy of which is attached hereto as **Exhibit "1."** Dr.
5 Malfitano appeared before the Commission and clarified that the Properties would be operated
6 as non-gaming business establishments upon termination of the Leases with Dewing, and
7 explained that the Dewing Leases would indeed be terminated in the near future. *Id.* at 5-6.

8 Storey County District Attorney Anne Langer discussed whether the Commission could
9 approve the requested license while then-current business and liquor license holder Dewing
10 was still operating at the same locations. *Id.* Ms. Langer noted that the Commission could
11 possibly approve the license applications with instructions that the licenses should not be
12 issued until the Leases with Dewing are terminated. *Id.* However, Ms. Langer ultimately
13 recommended denial of the applications given the potential for duplication of licenses for the
14 Delta and Bonanza Properties. *Id.* Ms. Langer noted that Storey County Sheriff Gerald
15 Antinoro had authority to allow Petitioners to proceed with business operations on an interim
16 basis until subsequent license applications could be heard at a later date. *Id.*

17 In discussing the proper procedural path, Commission Chairman Marshall McBride
18 instructed Dr. Malfitano that once Petitioners take over operations for Dewing, he should work
19 with Sheriff Antinoro, who had authority to allow Petitioners to operate both businesses prior
20 to obtaining final approval—and stated that he saw no reason to deny the licenses except for
21 the fact that it would result in duplicate licenses being issued for the same locations.² *Id.*
22 Ultimately, the applications were denied as premature, with the understanding that Petitioners
23 would seek interim licensing upon termination of the Dewing Leases, and subsequently place
24 the license applications on the next available Commission agenda. *Id.*

25 ///

26 ///

27 _____
28 ² Importantly, this Commission hearing occurred and these comments were made *after* the Nevada Gaming
Commission had denied gaming licenses to the Petitioners at public hearings.

1 C. **The October 6, 2015 Storey County Board of Commissioners Meeting³**

2 **1. Housekeeping, the Consent Agenda, and the First Discussion Item.**

3 Petitioners placed their liquor and general business license applications on the next
4 available Commission meeting after the September 1, 2015 meeting, which was held on
5 October 6, 2015. Petitioners' Leases with Dewing had been terminated on October 1, 2015, at
6 which time Petitioners took over operations at the Properties and worked with Sheriff Antinoro
7 to obtain interim licensing. *See* Storey County Board of County Commissioners October 6,
8 2015 Agenda, Agenda Item 14 Action Report, a true and correct copy of the agenda and
9 supporting materials is attached hereto as **Exhibit "2."**⁴

10 The October 6, 2015 meeting proceeded according to the agenda, and the Commission
11 began by considering another business' application for a liquor license and general business
12 license at Piper's Opera House in Virginia City. *Id.* at 4; Transcript of October 6, 2015 Storey
13 County Board of County Commissioners Meeting, at 43-46, a true and correct copy of which is
14 attached hereto as **Exhibit "3."**⁵ The Commission first requested comment from Sheriff
15 Antinoro regarding the results of the applicant's liquor license investigation. Tr. 44. The
16 Commission then requested public comment, the Commission discussed the application, and
17 Chairman McBride then requested a motion. Tr. 44-46. The application was unanimously
18 approved. Tr. 46. This straightforward process would prove to be in stark contrast to the
19 different standard to which Petitioners were held, which is discussed in detail below.

20 ///

21 ///

22
23 ³ Petitioners did not attend the October 6, 2015 meeting in reliance on Chairman McBride's representation at the
24 September 1, 2015 meeting that the Commission had no reason to deny Petitioners' licenses, but for the duplication
issue.

25 ⁴ The Agenda Item Action Report for the October 6, 2015 meeting recommended approval of Petitioners' liquor and
general business licenses. *Id.*

26 ⁵ In addition to the written transcript of the proceedings, Petitioners are providing the video recording of the
27 October 6, 2015 meeting, a true and correct copy of which is attached hereto as **Exhibit "4."** Petitioners are
28 providing the video recording because several exchanges throughout the meeting become increasingly passionate,
which demonstrates the Liquor Boards' and the Commission's animus toward Petitioners and the arbitrary and
capricious nature of the decisions imposed.

1 2. *Discussion of Petitioners' Applications for Liquor Licenses.*

2 For Petitioners' application⁶—and in departure from the process involving Piper's
3 Opera House—the Liquor Board, unprompted, requested comment from counsel before any
4 discussion between the Board members. Tr. 46-47. Storey County District Attorney Langer
5 stressed that Storey County Code (as opposed to any provisions of the Nevada Revised
6 Statutes) should control the Commission's decision. Tr. 47. Ms. Langer then introduced
7 Special Counsel Robert Morris, who presented the legal framework of the relevant sections of
8 the Storey County Code regarding general business and liquor licensing. Tr. 48. Special
9 Counsel Morris discussed the provisions within Storey County Code Section 5.12.100
10 governing refusal of a general business license, as well as the provisions within Storey County
11 Code Section 5.04.010 regarding the required materials to be provided to the Liquor Board,
12 including “[p]roof of financial standing to warrant an expected satisfactory and profitable
13 business operation.” Tr. 48-51; *see* STOREY COUNTY CODE § 5.12.010(A). Special Counsel
14 Morris, after outlining the allowable grounds for denial of licenses, then stressed to the Liquor
15 Board that it should specify particular reasons for its yet-to-be-made decision by citing
16 evidence directly relating to Petitioners' financial standing. Tr. 51.

17 At that point, Sheriff Antinoro presented the results of the Sheriff's background
18 investigation into Petitioners, conducted pursuant to Storey County Code Section 5.12.010(B).
19 Tr. 51-52. Sheriff Antinoro stated that the investigation failed to reveal any criminal history
20 that would weigh against the granting of a license, and stated that the investigation
21 demonstrated significant finances and real estate holdings available to operate the business
22 operations at the Properties. *Id.* Sheriff Antinoro correctly recognized that the discussion
23 regarding Petitioners seemed different when compared to the discussion of the previous liquor
24 and general business license agenda item for Piper's Opera House—and wondered aloud
25 whether it was being addressed “with such bravado or gusto” due to the recent denial of
26

27 ⁶ As noted above, the applications seeking liquor licenses were heard first because Storey County liquor license
28 applications are heard by the Liquor Board, which is a four-member board that includes the Storey County
 Sheriff, whereas general business licenses are considered by the Commission.

1 Petitioners' Nevada gaming license applications. Tr. 52. Sheriff Antinoro stressed that the
2 standard for approval for a State gaming license under NRS Chapter 463 is significantly more
3 onerous than the lower standard for approval for county liquor licenses. *Id.* As a result,
4 Sheriff Antinoro reiterated that his office's background investigation into Petitioners revealed
5 no issues that would preclude issuance of licenses, and he recommended the Liquor Board
6 approve Petitioners' applications for liquor licenses. *Id.*

7 Special Counsel Morris then introduced into the record a copy of the Nevada Gaming
8 Control Board ("NGCB") Order (the "NGCB Order") from Petitioners' gaming license
9 applications.⁷ Tr. 52-53; *See Exhibit "5."* Special Counsel Morris quoted portions of the
10 Order finding that Petitioners' did not carry their burdens *in the Gaming Control Board matter*,
11 and that the NGCB cited nondisclosure of prior litigation and business related issues, including
12 prior tax liens. Tr. 53. Special Counsel Morris proposed that the Liquor Board could use the
13 NGCB conclusions when considering the Petitioners' financial standing of Petitioners pursuant
14 to Storey County Code Section 5.12.010(A). *Id.*

15 Sheriff Antinoro immediately noted that the NGCB conclusions were in relation to the
16 significantly more onerous standards used in Nevada state gaming licensure proceedings as
17 opposed to the lower Storey County Code standards. Tr. 54. He then reiterated that the Storey
18 County Sheriff's Office's investigation showed Petitioners had significant financial resources
19 and real property holdings in excess of \$5 million—sufficient to demonstrate adequate
20 financial standing under the Store County Code. Tr. 54-55.

21 Following public comment, the Liquor Board held a significant amount of discussion,
22 primarily regarding Petitioners' NGCB proceedings and the issues cited within the NGCB
23 order as the basis for the NGCB decision. Tr. 60-68, 73-76. Several individuals stated that the
24 issues cited by the NGCB along with the removal of gaming operations (and assumed loss of
25 revenue) call into question the profitability of the businesses going forward. Tr. 61-66.

26
27 ⁷ The parties consistently referred to the Order as the Gaming Control Board Order. More accurately, the Nevada
28 Gaming Control Board drafts a recommended Order for the Nevada Gaming Commission, which then approves and
signs the Order when in agreement. *See Exhibit "5"* at 6.

1 Chairman McBride argued that the Nevada Gaming Commission stated Dr. Malfitano had \$12
2 million in debt, and therefore Sheriff Antinoro's argument that Petitioners have assets of
3 approximately \$5 million is "dwarfed" by his debt. Tr. 60-61. However, the \$12 million
4 dollar debt discussed at the Gaming Commission hearing is the mortgage on a large-scale and
5 ongoing assisted living facility owned by a separate company, which is a business that is
6 controlled by Dr. Malfitano, but has nothing to do with the Delta or the Bonanza. The
7 Chairman also noted it was "no secret" that Dr. Malfitano financed \$2.5 million of the \$4
8 million purchase price for the Properties. Tr. 61. The Chairman concluded that Dr. Malfitano
9 being "upside down" by \$7 million, the \$2.5 million financed to purchase the Properties, *along*
10 *with removing gaming from the Properties* and alleging without any support at all that cash
11 flow will be reduced by 60 to 70 percent means that the Properties will not be a sustainable
12 business for Dr. Malfitano. *Id.* Chairman McBride then noted that he is knowledgeable about
13 gaming and that his family has been in gaming since the prohibition on gaming was lifted in
14 1931. Tr. 61-62.

15 In response, Sheriff Antinoro noted that the previous applicant at Piper's Opera House
16 was licensed without any discussion of the applicant's finances, and if the Board were to
17 selectively look into applicants' financial history and use other licensing entities' conclusions
18 and standards, it appeared that the Liquor Board is applying a gaming standard to Petitioners,
19 and that its inquiries into applicants are being done in a non-uniform and inconsistent manner.
20 Tr. 62-63.

21 In response, Chairman McBride argued that the Liquor Board would not be holding
22 Petitioners to a different standard because the conclusions in the NGCB Order and Petitioners'
23 planned non-gaming operations left him doubtful the business would be profitable, especially
24 since Petitioners have taken out the major source of revenue. Tr. 63. Sheriff Antinoro stated
25 that he did not know whether the new non-gaming operation would be successful, but that he
26 was attempting to apply the county code in a consistent manner. Tr. 63-64.

27 Commissioner Gilman again pointed to the NGCB Order, and stated that the NGCB
28 investigation clearly found violations of the gaming licensure standards. Tr. 64-65. He stated

1 that if you follow the NGCB conclusions and the reason the gaming license was denied, he
2 could not see how the Liquor Board could issue a liquor license. *Id.* He then reiterated that the
3 gaming investigation was clear, and that the standard was not reached for a Nevada gaming
4 license, or a Storey County liquor license in his opinion. *Id.*

5 Commissioner McGuffey then argued that Sheriff Antinoro's comparison between the
6 level of scrutiny given to the prior applicant's liquor license application with Petitioners'
7 applications is inapplicable because the prior applicant's license was not intended to be their
8 primary source of income, whereas Petitioners will be more reliant on alcohol sales. Tr. 65.
9 He then conceded that the Liquor Board should not rely completely on what the NGCB stated
10 in its Order, but that "the information in here sure gives you an idea of what kind of person he
11 is . . . has he changed? I don't know. I don't know the man." Tr. 65-66. Commissioner
12 McGuffey concluded by stating that the NGCB Order shows that Dr. Malfitano lacks probity
13 and has not shown integrity to run a business. Tr. 66.

14 In response, Sheriff Antinoro reiterated that the NGCB decision was based on Nevada
15 gaming licensure standards, and noted that there are licensed individuals in Storey County who
16 have many of the issues raised in the NGCB Order, including prior lawsuits, tax liens, and
17 judgments. Tr. 66-67. Sheriff Antinoro then questioned whether the Liquor Board would have
18 to review its existing licensees and future applicants under a different heightened standard. *Id.*
19 County Manager Pat Whitten then pointed back to the prior financial conclusions within the
20 NGCB Order and recommended that the Liquor Board deny the Petitioners' applications,
21 arguing that the NGCB conclusions and other testimony are serious indicators of lack of
22 financial strength and ability to conduct a business. Tr. 67-69.

23 **3. Public Comment.**

24 The Liquor Board opened up discussion for public comment, upon which citizen Bruce
25 Kittess spoke in favor of Petitioners and challenged Chairman McBride's statement at the
26 September 1, 2015 meeting in which he stated that there would be no delay in obtaining the
27 licenses and that there was no reason to deny Petitioners' applications except for the fact that it
28 would have resulted in duplicate licenses. Tr. 69; *see* Exhibit "1", at 5. In response, Chairman

1 McBride stated that he misspoke and should have said that Petitioners were free to return for
2 consideration of the license applications. Tr. 69-70. Chairman McBride continued to discuss
3 Petitioners' NGCB licensing proceedings, and stated that he was familiar with gaming
4 licensing procedures and that Dr. Malfitano had an opportunity to withdraw his application
5 rather than having his application denied.⁸ Tr. 70-71. Chairman McBride went on to state that
6 this issue has been the most controversial topic in his term on the Commission, and that he has
7 been approached by a significant number of residents who are "upset and displeased at the
8 decision that now we're going to turn the Delta into a sports bar." Tr. 71.

9 Chairman McBride then passionately exclaimed that the Delta Saloon has a history of
10 gaming dating back to Angelo Petrini's father. Tr. 71-72; *see* Exhibit "4", Statement of
11 Chairman McBride, at 1:32:00 to 1:35:42. Chairman McBride stated that Angelo Petrini's
12 father emigrated from Italy around the same time as Chairman McBride's grandmother, and
13 that the two families had built a "friendly, uh -- uh rivalry and competition on C Street all those
14 years" between their two properties. *Id.* But, Chairman McBride stated "this isn't the way it's
15 supposed to turn out, not at all." Tr. 72. He then stated that the Nevada Gaming Commission
16 gave Dewing 90 days to continue gaming operations at the Properties, thus giving Dr.
17 Malfitano time to sell the Properties to another person who would operate them as gaming
18 properties, but Dr. Malfitano instead chose to run the Properties as non-gaming businesses. *Id.*
19 Chairman McBride stated that "from my chair, it's - - it's not a good path. And - - and - - and
20 that's why we have so many people in this room today, because, uh, pretty much everybody is
21 displeased [with Dr. Malfitano's decision not to sell the Properties]." Tr. 72.

22 After this exchange, two Storey County residents spoke and cautioned the Liquor Board
23 that Storey County does not ask for all of the information that came up on the NGCB Order,
24 and if the Liquor Board looks at factors outside of those listed in county code, it could cause
25 legal problems. Tr. 73-76. With no additional public comment, Storey County District
26 Attorney Anne Langer spoke regarding the proper legal standard for the Liquor Board's

27 _____
28 ⁸ Chairman McBride was incorrect on this point under the particular circumstances of the Petitioners' applications for gaming licenses.

1 licensing decision, which she stressed should be solely based on Storey County Code Section
2 5.12.010(A). Tr. 76. Ms. Langer admonished that the Liquor Board must limit its analysis to
3 Storey County Code's "proof of financial standing to warrant an expected satisfactory and
4 profitable business operation, that's it. None of this moral character, [it] doesn't apply.
5 Financial wellbeing under the - - the local ordinance, that is what you're looking at and that is
6 what I would direct you to as counsel . . . Storey County District Attorney." Tr. 76; see Exhibit
7 "4", Statement of Anne Langer, at 1:40:30 to 1:41:32.

8 **4. Staff's Recommendation and the Decision.**

9 With public comment finished, Staff recommended denial of the licenses based on
10 concerns with Petitioners' financial standing and ability to conduct the businesses. Tr. 76-77.
11 Ms. Langer then admonished the Liquor Board to be specific on the record as to any reasons
12 for approving or denying the liquor licenses. Tr. 77. Commissioner McGuffey then moved to
13 deny the liquor license applications for "both the Bonanza and the Delta, uh, based upon, uh,
14 the probability of financial instability to operate successfully here in Virginia City." Tr. 77-78.
15 Sheriff Antinoro opposed, and Commissioner Gilman and Chairman McBride voted in favor of
16 the motion without providing any of the specifics that Ms. Langer had requested. Tr. 78.
17 Thus, the liquor licenses were denied by a vote of 3-1. *Id.*

18 **5. Discussion of Petitioners' Applications for General Business Licenses.**

19 Upon closing the discussion of Petitioners' liquor license applications, Chairman
20 McBride opened discussion regarding Petitioners' general business license applications. Tr.
21 78. Special Counsel Morris, again unprompted, addressed the Commission regarding the legal
22 standard for a proper denial of a general business license. Tr. 78-79. Special Counsel Morris
23 outlined 5.04.100, which contains the available grounds for denial of a general business
24 license. *Id.* He stressed that 5.04.100(A) states that a license may be refused until an applicant
25 complies or agrees to comply with other existing ordinances and laws, "so the refusal would be
26 based on them - - uh, the applicant not, um, complying with existing ordinances and laws." Tr.
27 79. He then noted that 5.04.100(B) states that a license may be denied if the applicant has any
28 unpaid property taxes, but "my understanding is that has not, um, been brought up." *Id.*

1 Staff stated that the Delta Saloon is up to building and fire codes, but that the Bonanza
2 has some fire code issues. Tr. 79-80. Staff therefore recommended approval of the general
3 business license for the Delta Saloon, but recommended denial for the Bonanza Saloon. Tr. 80.
4 Commissioner McGuffey noted that the Commission has granted approval to operate
5 businesses while fire sprinkler upgrades were pending. *Id.* The other Commission members
6 agreed, and County Manager Pat Whitten requested to have Gary Hames, the Storey County
7 Fire Protection District Fire Chief and who was present in the audience, speak regarding the
8 status of the sprinkler improvements in the Bonanza. *Id.*; see Exhibit "4", at 1:47:40 to 1:49:50.

9 Mr. Hames stated that his office had been working with Petitioners for nine months, but
10 that his office normally allows six months. Tr. 80-81. He therefore concluded that the
11 building is not safe and recommended denial of the general business license application. Tr.
12 81. In response, Bruce Kittess asked whether there is a written agreement between Petitioners
13 and Storey County agreeing that a sprinkler system would be installed by December 31, 2015.
14 *Id.* Mr. Hames stated that the agreement in question was tied to Petitioners' gaming license
15 approval, and since Petitioners' gaming license was denied the agreement is null and void. Tr.
16 81-82.

17 The Commission then unanimously approved the Delta general business license and
18 denied the Bonanza general business license. Tr. 82-83. The Commission then clarified that if
19 the sprinkler system is installed at later date, then Dr. Malfitano and VCG would have to re-
20 apply for a general business license. *Id.*

21 **D. Chairman McBride and Commissioner Gilman's Non-Recusal.**

22 Upon opening the agenda item considering Petitioners' liquor and general business
23 license applications on October 6, 2015, Chairman McBride disclosed that "I am in business on
24 C Street and hold a liquor license. Uh, I do not have any pecuniary, uh, interest in either the
25 Delta or Bonanza Saloons." Tr. 47. Commissioner Gilman then disclosed that "I, uh, operate
26 a business on C Street. Um, I have no pecuniary interest in the Delta Saloon or the Bonanza."
27 *Id.* There was no analysis of Chairman McBride's or Commissioner Gilman's disclosures, and
28 the agenda item proceeded. *Id.*

Chairman McBride owns, or is the partial owner, of the Bucket of Blood Saloon located directly across the street from Delta.⁹ Commissioner Gilman owns the Mustang Ranch Steakhouse located cater-corner from the Delta and two storefronts south of the Bonanza.¹⁰ As discussed in detail below, Chairman McBride's and Commissioner Gilman's proprietary interests in the Bucket of Blood Saloon and the Mustang Ranch Steakhouse are such that the independence of judgment of a reasonable person in their situation would be materially affected by their significant pecuniary interests in their establishments. *See* NRS 281A.420. Indeed, many of the statements made throughout the October 6, 2015 meeting demonstrate that there was a serious lack of independence of judgment. Accordingly, they should have recused themselves from voting on Petitioners' license applications.

III. STATEMENT OF ISSUES PRESENTED

1. Whether the Liquor Board acted arbitrarily and capriciously in denying Petitioners' application for a liquor license when it failed to apply the proper standard under Storey County Code Section 5.12.010 and instead based its decision on board members' biased opinions as to how Petitioners should operate their business.

⁹ *See* Nevada Secretary of State Business Entity search results for The Bucket of Blood Saloon, available at <http://nvsos.gov/sosentitysearch/CorpDetails.aspx?lx8nvq=EhFFy3FJVw9Fu72%252bVrUFQg%253d%253d&nt7=0>; RONALD M. JAMES, VIRGINIA CITY: SECRETS OF A WESTERN PAST, at xii (2012) (thanking "the late Don McBride and Marshall McBride, proprietors of their beloved Bucket of Blood Saloon . . ."); Teri Vance, *Carvass on the Comstock: Painting Virginia City's Story*, The Nevada Appeal, October 12, 2014, available at <http://www.nevadaappeal.com/news/13313126-113/virginia-mural-artist-comstock>.

Petitioners also request this Court take judicial notice of the Bucket of Blood Saloon website, which includes a section entitled "McBride & Sons" that tells the history of the McBride family's ownership of the Bucket of Blood Saloon. THE BUCKET OF BLOOD SALOON, Mc Bride and Sons, <http://www.bucketofbloodsaloonvc.com/us.htm> (last visited October 13, 2015). Additionally, the fact that Chairman McBride owns the Bucket of Blood is a fact generally known within Storey County that is not subject to reasonable dispute. NRS 47.130. As a result, Petitioners request that this Court take judicial notice of the fact that Chairman McBride owns the Bucket of Blood Saloon.

¹⁰ *See* Minutes of the Storey County Board of County Commissioners Meeting, held April 1, 2014, at 12 (in which Commissioner Gilman abstained from voting due to his being the proprietor of the business, and in which the Commission approved the liquor and business license for "Mustang Ranch Retailer dba Mustang Ranch Steak House" to operate as a restaurant and lounge). Additionally, the fact that Commissioner Gilman owns the Mustang Ranch Steakhouse is a fact generally known within Storey County that is not subject to reasonable dispute. NRS 47.130. As a result, Petitioners request that this Court take judicial notice of the fact that Commissioner Gilman owns the Mustang Ranch Steakhouse.

2. Whether the Commission acted arbitrarily and capriciously in denying Petitioners' application for a business license when it failed to apply the proper standard under Storey County Code Section 5.04.100 or to have substantial evidence supporting its decision and instead based its decision on board members' biased opinions as to how Petitioners should operate their business.

3. Whether Chairman McBride and Commissioner Gilman properly disclosed their conflict of interest pursuant to NRS 281A.420.

4. Whether Chairman McBride and Commissioner Gilman should have recused themselves from voting on Petitioners' applications for a liquor license and business license due to their conflict of interest.

IV. STATEMENT OF RELIEF SOUGHT

Petitioners request that this Court issue a writ of mandamus directing the Liquor Board to reverse its denial of Petitioners' applications for county liquor licenses and the Commission's denial of VCG's application for a general business license, and directing the Liquor Board and the Commission to approve such applications.

V. STATEMENT OF REASONS WHY THE WRIT SHOULD ISSUE

1. A writ of mandamus is an appropriate remedy for Petitioners to seek relief with this Court from the Liquor Board's and the Commission's decisions to deny Petitioners' liquor and business licenses.

2. The Liquor Board acted arbitrarily and capriciously in denying Petitioners' application for a liquor license when it failed to apply the proper standard under Storey County Code Section 5.12.010. Instead of limiting its review to relevant information in the record, the Liquor Board applied a heightened legal standard that was inapplicable to its proceedings. In addition, the Liquor Board arbitrarily and capriciously based its denial on board members' biased opinions as to how Petitioners should operate their business, rather than substantial evidence.

2. The Commission acted arbitrarily and capriciously in denying VCG's application for a business license when it failed to apply the proper standard under Storey County Code Section 5.04.100. Similar to the liquor license issue, the Commission arbitrarily and capriciously based its denial on board members' biased opinions as to how Petitioners should operate their business.

3. Chairman McBride and Commissioner Gilman did not properly disclose their conflict of interest pursuant to NRS 281A.420.

4. Chairman McBride and Commissioner Gilman should have recused themselves from voting on Petitioners' applications for a liquor license and business license due to their conflict of interest.

VI. LEGAL ANALYSIS IN SUPPORT OF VERIFIED WRIT

A. A Writ of Mandamus is a Proper Remedy Because the Petitioners Have No Plain, Speedy, or Adequate Remedy at Law to Correct Storey County's Arbitrary and Capricious Decision.

Where a public officer or entity has failed to perform an act that the law requires, or to control an arbitrary or capricious exercise of discretion, a party is entitled to a writ of mandamus from a district court compelling the public officer or entity to act. NRS 34.160; *City of Reno v. Nev. First Thrift*, 100 Nev. 483, 487-89, 686 P.2d 231, 233-34 (1984) (affirming the district court issuance of a writ of mandamus based on the arbitrary and capricious denial of a business license and certificate of occupancy). A writ of mandamus is properly issued when a plain, speedy, and adequate remedy at law is not available. NRS 34.170; *see also State ex rel. Armstrong v. State Bd. of Examiners*, 78 Nev. 495, 497, 376 P.2d 492, 493 (1962). The Nevada Supreme Court has specifically held that local and county board actions are reviewable by extraordinary writ. *See Washington v. Cnty. Liquor & Gaming Lic. Bd.*, 100 Nev. 425, 428, 683 P.2d 31, 33 (1984); *Clark Cnty. Liquor & Gaming Lic. Bd. v. Clark*, 102 Nev. 654, 658, 730 P.2d 443, 446 (1986).

1 There is no adequate remedy for Petitioners to address the Liquor Board's and the
2 Commission's improper actions other than through writ relief from this Court. Specifically,
3 Petitioners are currently left without legal authority to conduct any business in the Bonanza,
4 and may not conduct any alcohol sales at the Delta, all based on clearly arbitrary and
5 capricious decisions. Absent relief from this Court, Petitioners will continue to suffer serious
6 financial harm directly caused by the arbitrary and capricious conduct, and will have to begin
7 laying off employees of the Delta and Bonanza in the immediate future.

8 **B. The Liquor Board's Denial of Petitioners' Liquor License Applications**
9 **Was Based on an Erroneous Legal Standard and Was Arbitrary and**
10 **Capricious.**

11 Even if the Commissioners' conflicts of interest were not an issue, the Liquor Board
12 and the Commission clearly based their licensure decisions on legal conclusions that are
13 outside of the relevant scope of the Storey County Code. Under Storey County Code, new
14 applicants for liquor licenses must provide "[p]roof of financial standing to warrant an
15 unexpected satisfactory and profitable business operation" and complete a background check.
16 STOREY COUNTY CODE § 5.12.010. As Special Counsel Morris and District Attorney Langer
17 noted at the October 5, 2015 meeting, there is no other standard within Section 5.12 of the
18 Storey County Code available to justify denial of a liquor license application, and for that
19 reason, no information outside of the scope of the relevant code section can or should be
20 considered by the Liquor Board. *See* STOREY COUNTY CODE § 5.12.010, *et seq.*

21 Sheriff Antinoro clearly outlined the results of Petitioner's background investigation,
22 stating that the investigation failed to reveal any criminal history that would weigh against the
23 granting of a license and stating that the investigation revealed significant finances and real
24 estate holdings available to operate the business operations at the Properties.

25 In spite of Sheriff Antinoro's findings and conclusions regarding Petitioner's financial
26 standing pursuant to Storey County Code § 5.12.010, the Liquor Board spent an inordinate
27 amount of time discussing their prognostications as to what they believe the future profitability
28 of Petitioner's new non-gaming business operations might be. However, the Liquor Board

1 basing any liquor license approvals on the board members' personal opinions as to whether a
2 business location "should be" operated as a specific type of business or whether individual
3 business owners are maximizing their profitability is inappropriate and, more importantly, not
4 within the law.¹¹ Business owners have the right to conduct their businesses as they see fit
5 within the bounds of the law. The Commissioners have no right to direct how their businesses
6 should be run, and nothing in the Storey County Code provides them that right.

7 Additionally, the conclusions within the NGCB Order cited by the Liquor Board were
8 all made in relation to the burdens necessary for Nevada State gaming licensure. *See* NRS
9 463.170. Among the several required findings of suitability for Nevada gaming licensure are
10 (1) a finding that the person's prior activities, criminal record, reputation, habits, and
11 associations do not pose a threat to the public interest of the State of Nevada or to the effective
12 regulation and control of gaming, (2) a finding of adequate business probity, competence and
13 experience in gaming and business, and (3) a finding that the applicant is of good character,
14 honesty and integrity. NRS 463.170. In other words, the requirements to be licensed by the
15 Nevada Gaming Commission are significantly higher and are more broad and more strenuous
16 when compared to the Storey County liquor licensing ordinance.

17 An application for a Nevada State gaming license requires a significant amount of
18 investigation into an applicants' distant past. *See generally*, Nevada Gaming Control Board
19 Regulation 4.010, *et seq.* Gaming license applicants are required to disclose a wide variety of
20 personal history items, including incidents or events that occurred over a decade prior. In fact,
21 the majority of the adverse conclusions within the NGCB Order related to non-disclosure of
22 old litigation matters, prior and old tax liens, and other issues—not current financial standing.
23 Here, the conclusions cited by the Liquor Board within the NGCB Order are associated with
24 the legal standard for issuance of State gaming licenses regarding events that (1) occurred in
25 the past and therefore have no bearing on *present* financial standing under Storey County Code

26 _____
27 ¹¹ The board members' personal opinions that the Properties should only be operated as gaming establishments
28 and their concerns regarding profitability due to the removal of gaming activities is not only legally inappropriate,
but it also fails to consider the value of replacement business opportunities that will replace gaming revenues and
possible cost savings associated with the change.

1 Section 5.12.010(A), and (2) are regarding non-financial issues such as reputation, habits, and
2 general moral considerations. *See* NRS 463.170(2)-(3). In either event, these conclusions
3 cannot be used as a basis for denial of a Storey County liquor license.

4 This is evident given the significant differences between the factors to be considered
5 under Storey County Code Section 5.12.010(A) and NRS 463.170. Thus, when the Liquor
6 Board cited to the NGCB Order, it failed to appreciate that the conclusions made by the
7 Nevada Gaming Control Board are viewed through the lens of Nevada Gaming Control Act.
8 This is evident in the initial introduction by Special Counsel Morris, in which the NGCB found
9 that Petitioners, in the Nevada State gaming action, “failed to carry their burdens to
10 demonstrate adequate business competence.” Adequate business competence is not a basis for
11 denial of a Storey County liquor license; it is, however, a basis for denial of a Nevada gaming
12 license. NRS 463.170(3)(a).

13 On the other hand—as repeatedly stated by Sheriff Antinoro and by District Attorney
14 Langer prior to the final vote of the Liquor Board—the sole criteria for evaluation of a Storey
15 County liquor license is whether the applicant has shown proof of financial standing such that
16 the applicant can be expected to run a satisfactory business operation. STOREY COUNTY CODE
17 5.12.010(A). The conclusions within the NGCB Order are simply incompatible with that
18 inquiry.

19 Moreover, the NGCB Order was based upon the Nevada Gaming Control Board’s
20 investigation, applying the standards applicable to a state gaming license. The factual bases for
21 the conclusions in the NGCB Order are set forth in a detailed investigative report. There is no
22 indication in the record that Storey County obtained or relied upon that detailed investigative
23 report, and they gave the Petitioners no opportunity to refute any of the statements in the report
24 or conclusions in the NGCB Order. Rather, Storey County simply seized upon the conclusions
25 in the NGCB Order—conclusions that were drawn under a substantially different legal
26 standard, without putting any factual basis for its own conclusions into the record. The lack of
27 substantial evidence in the record supporting their conclusions further demonstrates that the
28 decision was arbitrary and capricious.

1 In spite of these issues, the Commissioners repeatedly pointed to the conclusions in the
2 NGCB Order as a basis to deny Petitioners' licensing applications. For example,
3 Commissioner McGuffey noted that the Liquor Board should not rely completely on what the
4 NGCB stated in its Order, but then stated that "the information in here sure gives you an idea
5 of what kind of person he is." He then concluded by stating that the NGCB Order shows that
6 Dr. Malfitano lacks probity and has not shown integrity to run a business. Every one of these
7 statements demonstrates the flawed basis by which Petitioners' were denied licensure.

8 Similarly, Chairman McBride passionately expressed his displeasure with Dr.
9 Malfitano's decision to operate the properties as non-gaming establishments rather than sell
10 them to another individual who has a gaming license.¹² The Chairman discussed the long
11 history of gaming in the Delta, describing his family's long-time relationship with the Petrini
12 family, ultimately stating "this isn't the way it's supposed to turn out, not at all." The
13 Chairman continued to stress that the Nevada Gaming Commission allowed Dewing 90 days to
14 continue gaming operations at the Properties in order to give Dr. Malfitano the opportunity to
15 sell the Properties, but that he has opted to operate the Properties as non-gaming operations,
16 and "from my chair, it's - - it's not a good path. And - - and - - and that's why we have so
17 many people in this room today, because, uh, pretty much everybody is displeased [with Dr.
18 Malfitano's decision not to sell the Properties]." Tr. 72.

19 In summary, the only bases proffered by the Liquor Board for denial of Petitioners'
20 liquor licenses were (1) the conclusions within the NGCB Order that were based on the
21 extremely strict suitability standards within Nevada Gaming Control Act, and (2) the
22 individual board members' displeasure with Dr. Malfitano's decision to operate the properties
23 as non-gaming establishments rather than sell them to another individual who has a gaming
24 license. These are completely inapplicable to Storey County Code Section 5.12, and as a
25 result, there is no substantial evidence to support the Liquor Board's denial.

26
27
28 ¹² See Exhibit "4", Statement of Chairman McBride, at 1:32:00 to 1:35:42.

1 This is apparent when, despite District Attorney Langer's admonition prior to the
2 Liquor Board's ultimate motion and decision that the decision should be specific as to its
3 grounds, Commissioner McGuffey made a simple motion to deny the license applications for
4 "both the Bonanza and the Delta based upon the probability of financial instability to operate
5 successfully here in Virginia City." This glaring lack of any factual basis in the motion for
6 denial exemplifies the lack of evidentiary support, and the arbitrary and capricious nature of
7 the Liquor Board's evaluation of Petitioner's applications as well as the Liquor Board's
8 ultimate decision. On the contrary, it is clear that the Liquor Board's denial of the liquor
9 licenses was due to the board members' personal preferences as to how Dr. Malfitano has
10 chosen to operate his businesses.

11 The Liquor Board's decision was clearly arbitrary and capricious, and as a result,
12 Petitioners request this Court issue a writ of mandamus instructing the Liquor Board to
13 approve Petitioners' liquor license applications pursuant to Storey County Code Section 5.12.

14 **C. The Commission's Denial of VCG's General Business License Application**
15 **Was Arbitrary and Capricious.**

16 Upon opening discussion regarding Petitioners' general business license applications
17 at the October 6, 2015 meeting, Special Counsel Morris, again unprompted, outlined the legal
18 standard for a proper denial of a general business license under Storey County Code 5.04.100.
19 He stressed that 5.04.100 states that a license may be refused until an applicant complies or
20 agrees to comply with other existing ordinances and laws. Even after Commissioner
21 McGuffey noted that the Commission has granted approval to operate businesses while fire
22 sprinkler upgrades were pending in other matters, the Commission still proceeded to deny
23 VCG's application for a general business license.

24 Commissioner Gilman requested to have Gary Hames, the Storey County Fire
25 Protection District Fire Chief, speak regarding the status of the sprinkler improvements in the
26 Bonanza. Mr. Hames stated that he had been working with Petitioners for nine months, but
27 that a sprinkler system had not yet been installed and therefore recommended denial of the
28 general business license application. In response, Bruce Kittess asked whether there is a

1 written agreement between Petitioners and Storey County agreeing that a sprinkler system
2 would be installed by December 31, 2015. Mr. Hames stated that the agreement in question
3 was tied to Petitioners' gaming license approval, and that since Petitioners' gaming license was
4 denied the agreement is null and void. The Commission then unanimously denied the Bonanza
5 general business license.

6 The orchestration of this denial, including (1) having Special Counsel Morris outline
7 the proper legal basis for a denial and his statement that a license may be refused until an
8 applicant complies or agrees to comply with other existing ordinances and laws, and (2)
9 bringing the fire chief to speak again, demonstrates the lack of objectivity and impartiality of
10 the Commission as it relates to Petitioners' planned non-gaming business.

11 Notwithstanding the clear lack of impartiality, there is no legal support for Mr. Hames'
12 statement that the agreement between Petitioners and the Storey County Fire District is null
13 and void. Under the agreement in question, the parties agreed that "upon Virginia City
14 Gaming, LLC (VCG) receiving its Unrestricted Gaming License to operate this property,
15 (VCG) will immediately move forward with these following conditions . . . Sprinkler
16 installation shall be completed and operational by '**Date to be determined**' . . ." See Contract
17 between VCG and the Storey County Fire District, dated May 15, 2015, a true and correct copy
18 of which is attached hereto as **Exhibit "6."** (bold text in the original contract).

19 Here, VCG obtaining its gaming license is not a material term to the contract. It is
20 irrelevant whether VCG operates the properties with or without a gaming license. VCG may
21 operate its business without a gaming license if it chooses to do so, and there is simply no
22 connection between having or not having a gaming license and the sprinkler system. The
23 relevant contract term is that VCG will take the necessary steps to install a fire sprinkler
24 system pursuant to the terms in the contract. Prior to the denial, VCG had already obtained
25 bids for the sprinkler system and was proceeding to have the sprinkler system installed.

26 Simply put, there is no reason why VCG's non-licensure for gaming would enable
27 Storey County to unilaterally break the contract. Instead, Mr. Hames proffered an arbitrary
28 six-month "deadline" under which he usually gives landowners to install fire systems. He gave

1 no substantiation for this six-month timetable, and only when pressed on the existing contract
2 between the Storey County Fire Protection District and VCG did he argue that the contract was
3 somehow "null and void." VCG remains ready, willing, and able to install the sprinkler system
4 pursuant to the contract.

5 Given the flawed legal argument proffered by Mr. Hames and the Commission's clear
6 lack of uniformity and impartiality toward Petitioners that led to the Commission's arbitrary
7 and capricious denial, Petitioners respectfully request that this Court issue a writ of mandamus
8 instructing the Commission to approve VCG's general business license application pursuant to
9 Storey County Code Section 5.04.

10 **D. Chairman McBride and Commissioner Gilman Did Not Properly Disclose**
11 **Their Pecuniary Interests in Petitioners' Applications, and Should Have**
12 **Recused Themselves From Voting.**

13 Even if this Court does not find the legal standards used by the Liquor Board and the
14 Commission to be arbitrary and capricious, or the record to be devoid of substantial evidence
15 to support the denial, the statements made by the individual Commissioners in conjunction
16 with the Commissioners' largely undiscussed conflicts of interests demonstrate that (1)
17 Petitioners were subjected to denial of liquor and general business licenses based on the
18 Commissioners' biased opinions as to how the Delta and Bonanza "should" be operated, and
19 (2) Chairman McBride and Commissioner Gilman should have recused themselves from
20 voting on, or advocating against, Petitioners' applications. As a result, even if this Court does
21 not issue a writ of mandamus instructing the Liquor Board and Commission to approve
22 Petitioners' liquor and general business licenses, then in the alternative, this Court should
23 vacate the boards' denials with instructions that Chairman McBride and Commissioner Gilman
24 should not vote upon or advocate the passage or failure of Petitioners' license applications.
25 NRS 281A.420(3)(b)-(c).

26 The Nevada Ethics in Government Law requires that public officers shall not approve
27 or disapprove of a matter in which the public officer has a significant pecuniary interest. NRS
28 281A.420(1)(b). Thus, a public officer "shall not vote upon or advocate the passage or failure

1 of, but may otherwise participate in the consideration of, a matter with respect to which the
2 independence of judgment of a reasonable person in the public officer's situation would be
3 materially affected by" *inter alia*, "[t]he public officer's significant pecuniary interest; or [t]he
4 public officer's commitment in a private capacity to the interests of another person." NRS
5 281A.420(3)(b)-(c); *see Nevada Comm'n on Ethics v. Carrigan (Carrigan I)*, 131 S. Ct. 2343,
6 2346 (2011); *Carrigan v. Nevada Comm'n on Ethics (Carrigan II)*, 129 Nev. Adv. Op. 95, 313
7 P.3d 880, 885 (2013).

8 Here, Chairman McBride and Commissioner Gilman failed to properly disclose their
9 pecuniary interest in the matter—namely, that the approval or denial of the liquor and business
10 licenses for two of their direct competitors in downtown Virginia City would have a
11 significant, direct, and likely positive impact on their businesses. *See* NRS 281A.420(1)(b);
12 NRS 281A.420(3)(b). Additionally, Chairman McBride's family's relationship with the
13 Petrini family appears to have affected Chairman McBride's independence of judgment,
14 especially in light of the Chairman's statements during public comment regarding his
15 disapproval of Dr. Malfitano's decision to not sell the Properties after the gaming licensing
16 decision, along with his family's "friendly, uh -- uh rivalry and competition on C Street all
17 those years" and long-running relationship with the Petrini Family between their establishment
18 and the Delta. *See* Section II.C.2, *supra*; NRS 281A.420(3)(c); *see also* NRS 281A.065(6)
19 (providing that a commitment, interest or relationship between a public officer and a person
20 with whom the public officer has a commitment, interest or relationship substantially similar to
21 common familial relationships may constitute grounds for recusal pursuant to NRS
22 281A.420(3)(c)); *Carrigan I*, 131 S. Ct. at 2346; *Carrigan v. Comm'n on Ethics (Carrigan II)*,
23 129 Nev. Adv. Op. 95, 313 P.3d 880, 885 (2013) (confirming that a city councilman's
24 relationship with a friend and campaign manager was a disqualifying conflict of interest).

25 As discussed above, upon opening the October 6, 2015 agenda item considering
26 Petitioners' liquor and general business license applications, Chairman McBride disclosed: "I
27 am in business on C Street, and hold a liquor license. I do not have any pecuniary interest in
28 either the Delta or Bonanza Saloons." Tr. 47. Commissioner Gilman then disclosed that "I

1 operate a business on C Street. I have no pecuniary interest in the Delta Saloon or the
2 Bonanza.” *Id.* These disclosures are mere lip service because they fail to acknowledge the full
3 nature of the conflict at issue.

4 **1. Chairman McBride’s Family’s Relationship with the Petrini Family**
5 **is a Disqualifying Conflict of Interest under NRS 281A.420(3)(c)**
6 **and NRS 281A.065(6).**

7 Generally under Nevada law, a non-familial relationship will not give rise to a conflict
8 under Nevada Ethics in Government Law. *See* NRS 281A.065(1)-(5). However, in certain
9 instances in which a public officer’s relationship with a non-blood-related individual is
10 substantially similar to common familial relationships and that relationship may materially
11 affect the public officer’s independence of judgment, then the public official must not vote
12 upon, or advocate for, the passage or failure of a matter. NRS 281A.420(3)(c); NRS
13 281A.065(6); *Carrigan II*, 129 Nev. Adv. Op. 95, 313 P.3d at 884-85 (analyzing what was then
14 NRS 281A.420(8)(e), which has since been recodified in substantially similar form as NRS
15 281A.065(6)).

16 Chairman McBride’s family’s long-standing relationship with the Petrini family, while
17 not a “blood” or member of a household relationship, is a very close and personal relationship
18 that warrants consideration under Nevada Ethics in Government Law. The appropriate inquiry
19 regarding such a close relationship is whether the public officer’s independence of judgment is
20 materially affected by the public officer’s relationship with that individual. NRS
21 281A.420(3)(c). Here, it became clear at the October 6, 2015 meeting that Chairman
22 McBride’s close personal relationship with the Petrini family and his witnessing the transition of the
23 Petrini family’s long-held operation into different type of businesses materially affected his
24 independence of judgment.

25 As summarized in Section II.C.2, *supra*, Chairman McBride passionately told the story
26 of the Delta Saloon and its long history of gaming dating back to when Angelo Petrini’s father
27 owned it.¹³ He explained that both families emigrated from Italy, and that the two families had

28 ¹³ *See* Exhibit “4”, Statement of Chairman McBride, at 1:32:00 to 1:35:42.

1 built a friendly rivalry and competition over the years between their two properties, and “this
2 isn’t the way this is supposed to turn out. Not at all.” Tr. 71-72. The Chairman then expressed
3 his displeasure with Dr. Malfitano’s decision to change the business operations from a gaming
4 establishment to a non-gaming establishment—stating the Gaming Commission gave Dr.
5 Malfitano time to sell the Properties to another person who would operate them as gaming
6 properties, but Dr. Malfitano instead chose to run the Properties as non-gaming businesses.
7 Chairman McBride concluded with his opinion that “from my chair, it’s - - it’s not a good path.
8 And - - and - - and that’s why we have so many people in this room today, because, uh, pretty
9 much everybody is displeased [with Dr. Malfitano’s decision not to sell the Properties].” Tr.
10 72.

11 It is clear from the record that Chairman McBride’s family’s relationship with the
12 Petrini family materially affected his independence of judgment, leading to the arbitrary and
13 capricious denials of Petitioners’ license applications. The Chairman’s decisions were based
14 not on the Storey County Code, but rather on his personal displeasure with Dr. Malfitano and
15 his conversion of the Petrinis’ long-held business. The fact that these comments and opinions
16 were made at all—and were passionately made—demonstrate the problematic nature of his
17 conflict of interest. As a result, Chairman McBride should have disclosed this relationship and
18 refused to vote upon or advocate for the failure of Petitioners’ liquor and general business
19 license applications. NRS 281A.420(3); NRS 281A.065(6); *Carrigan II*, 129 Nev. Adv. Op.
20 95, 313 P.3d at 884-85.

21 As a result, even if this Court does not issue a writ of mandamus instructing the Liquor
22 Board and the Commission to approve the liquor and general business licenses as requested
23 above, then in the alternative, this Court should vacate the boards’ denials with instructions
24 that Chairman McBride and Commissioner Gilman should not vote upon or advocate the
25 passage or failure of Petitioners’ license applications. NRS 281A.420(3)(b)-(c).

2. **Chairman McBride and Commissioner Gilman's Disclosures and Conclusions That They Do Not Have a Pecuniary Interest in the Delta or Bonanza Do Not Reach the True Nature of the Conflict at Issue.**

As discussed above, upon opening the October 6, 2015 agenda item considering Petitioners' liquor and general business license applications, Chairman McBride disclosed: "I am in business on C Street, and hold a liquor license. I do not have any pecuniary interest in either the Delta or Bonanza Saloons." Tr. 47. Commissioner Gilman then disclosed that "I operate a business on C Street. I have no pecuniary interest in the Delta Saloon or the Bonanza." *Id.* These disclosures are disingenuous because they fail to acknowledge the full nature of the pecuniary interests at issue.

Of course it is correct that Chairman McBride and Commissioner Gilman do not have any pecuniary interest *in the Delta or Bonanza*. However, those disclosures ignore the positive effect that a denial of licensure would have on their businesses. Nevada Ethics in Government Law is not limited solely to a public officer's pecuniary interest in the direct subject matter of an item of consideration. Rather, Nevada law requires abstention when "the independence of judgment of a reasonable person in the public officer's situation would be materially affected by . . . [t]he public officer's significant pecuniary interest." NRS 281A.420(3)(b). In other words, the proper analysis is the public officer's pecuniary interest in the entire situation at issue, not solely whether the public officer has a pecuniary interest in the building or business being considered.

In this situation, Chairman McBride's and Commissioner Gilman's pecuniary interest lies in the fact that their businesses—The Bucket of Blood Saloon and the Mustang Ranch Steakhouse—stand to gain an economic advantage from a denial of liquor and general business licenses for their competitors. These businesses are direct competitors of Delta's and Bonanza's entertainment, food, and beverage services, and are located adjacent to the Delta and Bonanza in the center of downtown Virginia City.

Petitioners acknowledge that the public policy of this State generally favors the right of a public officer to perform his or her duties, and therefore public officers should only abstain in

1 clear cases where the independence of judgment of a reasonable person in the public officer's
2 situation would be materially affected. *See* NRS 281A.420(4). However, this is that case.
3 First, it is highly relevant that Chairman McBride's and Commissioner Gilman's businesses
4 are in such close proximity to the Delta and Bonanza Properties. These businesses compete
5 directly with each other for downtown Virginia City business. Second, it is important to note
6 that this is not a situation in a medium or large sized city in which a county commissioner or
7 city councilman owns one of dozens or hundreds of a certain type of business. Virginia City is
8 a small town with a limited number of bars, restaurants, and saloons. Here, eliminating two
9 such businesses in a town the size of Virginia City would absolutely have a significant and
10 positive effect on business at the Bucket of Blood Saloon and the Mustang Ranch Steakhouse,
11 especially when the two eliminated competitors are in such close proximity.

12 As a result, Chairman McBride's and Commissioner Gilman's disclosures were
13 insufficient to accurately identify their actual pecuniary interests at stake. In light of the
14 significant and positive effect a denial of Petitioners' license applications would have on
15 Chairman McBride's and Commissioner Gilman's personal businesses, they should have
16 recused themselves. NRS 281A.420(3)(b). Thus, even if this Court does not issue a writ of
17 mandamus instructing the Liquor Board and the Commission to approve the liquor and general
18 business licenses as requested above, then in the alternative, this Court should vacate the
19 boards' denials with instructions that Chairman McBride and Commissioner Gilman should
20 not vote upon or advocate the passage or failure of Petitioners' license applications. NRS
21 281A.420(3)(b)-(c).

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///


HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

1 **VII. CONCLUSION**

2 Based on the foregoing, Petitioners respectfully request that this Court issue a writ of
3 mandamus: 1) reversing the Liquor Board's denial of Petitioners' applications for county
4 liquor licenses and reversing the Commission's denial of VCG's application for a general
5 business license; and 2) compelling the Liquor Board and the Commission to approve such
6 applications.

7 The undersigned affirms that the foregoing does not contain the social security of any
8 person.

9 DATED this 13th day of October 2015.

10 
11 Matthew B. Hippler (SBN 7015)
12 Scott Scherer (SBN 87)
13 Brandon C. Sendall (SBN 13246)
14 HOLLAND & HART LLP
15 5441 Kietzke Lane, Second Floor
16 Reno, Nevada 89511
17 Tel. (775) 327-3000 / 786-6179 Fax

18
19
20
21
22
23
24
25
26
27
28
Attorneys for Petitioners

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

AFFIDAVIT OF BRANDON C. SENDALL

STATE OF NEVADA)
) ss.
COUNTY OF CARSON CITY)

I, Brandon Sendall, being first duly sworn, deposes and says:

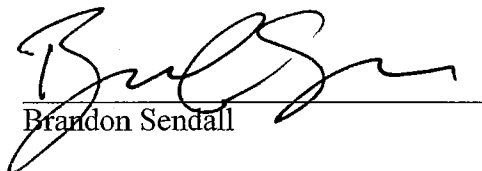
1. I am an attorney licensed to practice law in the State of Nevada. I am an associate at the law firm of Holland & Hart LLP, and one of the attorneys of record for Petitioners in the above-captioned matter. I make this Affidavit as verification of the Petition for Writ of Mandamus (the "Petition") filed herewith. I am over the age of eighteen (18) years, and am competent to testify to the matters stated herein.

2. I make this Affidavit pursuant to NRS 15.010 and NRS 34.150, *et seq.* The Petition is being verified by me as Petitioners' counsel because: (i) the facts upon which the Petition is based are within my personal knowledge and concern proceedings in which I was involved; and (ii) Petitioners are currently absent from the State of Nevada and unable to verify the Petition.

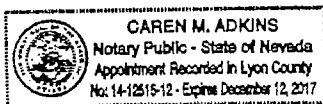
3. I have participated in the drafting and reviewing of the Petition and know the contents thereof. To the best of my knowledge, the Petition and the facts and exhibits contained herein are true and correct, except those facts stated on information and belief of which I believe to be true.

4. I declare under penalty of perjury that the foregoing is true and correct.

DATED this 13th day of October, 2015.


Brandon Sendall

SUBSCRIBED AND SWORN to before me this 13th day of October, 2015.





Notary Public
My Commission Expires 12/12/17

EXHIBIT INDEX

EXHIBIT #	DESCRIPTION	# OF PAGES
1	Minutes of the September 1, 2015 Storey County Board of County Commissioners Meeting	14
2	Storey County Board of County Commissioners Meeting Agenda, October 6, 2015, with Agenda Action Report	6
3	Storey County Board of County Commissioners Meeting Transcript, October 6, 2015	169
4	Video Recording of the Storey County Board of County Commissioners Meeting, October 6, 2015	CD
5	August 26, 2015 Order of the Nevada Gaming Control Board	7
6	Contract between VCG and the Storey County Fire Protection District	1

EXHIBIT 1

EXHIBIT 1



STOREY COUNTY BOARD OF COUNTY COMMISSIONERS MEETING

TUESDAY, SEPTEMBER 1, 2015 10:00 A.M.

DISTRICT COURTROOM
26 SOUTH B STREET, VIRGINIA CITY, NEVADA

MINUTES

MARSHALL MCBRIDE
CHAIRMAN

ANNE LANGER
DISTRICT ATTORNEY

LANCE GILMAN
VICE-CHAIRMAN

JACK MCGUFFEY
COMMISSIONER

VANESSA STEPHENS
CLERK-TREASURER

Roll Call: Chairman McBride, Vice-Chairman Gilman, Commissioner McGuffey, County Manager Pat Whitten, District Attorney Anne Langer, Clerk & Treasurer Vanessa Stephens, Comptroller Hugh Gallagher, Outside Counsel Robert Morris, Planner Jason Van Havel, Community Services Director Cherie Nevin, Deputy Sheriff Tony Dosen, Public Works Director Mike Nevin, Community Development Director Dean Haymore and Battalion Chief Jeff Nevin.

1. CALL TO ORDER AT 10:00 A.M.

The meeting was called to order by the Chair at 10:00am

2. PLEDGE OF ALLEGIANCE

The Chair led those present in the Pledge of Allegiance

3. DISCUSSION/POSSIBLE ACTION: Approval of Agenda for September 1, 2015

Mr. Whitten asked on behalf of Austin Osborne that item 14 be continued to the November 3, 2015 meeting.

Motion: Approve the Agenda for September 1, 2015, with item 14 continued to November 3, 2015,

Action: Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey,

Vote: Motion carried by unanimous vote (Summary: Yes=3)

4. DISCUSSION/POSSIBLE ACTION: Approval of Minutes for August 18, 2015

Motion: Approve the Minutes for August 18, 2015, **Action:** Approve, **Moved by:** Vice Chair

Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote

(Summary: Yes=3)

CONSENT AGENDA

5. For possible action approval of Payroll Checks date 08/14/15 \$452,895.00. Accounts payable checks date 08/21/15 for \$1,556,416.77 and \$6,382.67.
6. For possible action approval of Assessor's recommended corrections to 2015-16 Tax Roll for Exemptions to tax roll.
7. For possible action approval of Assessor's recommended corrections to 2015-16 Tax Roll for Partial Property Tax Abatements pursuant to NRS 361.4722 through 361.4724.
8. For possible action approval of Liquor License First Readings:
 - A. Storey County School District
9. For possible action approval of Business Licenses First Readings:
 - A. AMERICAN MINING & TUNNELING, LLC -- Contractor / 19208 E. Broadway ~ Spokane, WA (mining services)
 - B. P & L FENCING & IRON, LLC - Contractor / 2842 Marco Street ~ Las Vegas (steel fabrication)
 - C. CROP PRODUCTION SERVICES, INC. - General / 3005 Rocky Mountain Ave ~ Loveland, CO (distributor of crop input)
 - D. SOIL TECH, INC - Contractor / 6420 South Cameron ~ Las Vegas (general contractor/engineer)
 - E. GARTNER REFRIGERATION & MFG - Contractor / 13205 16th Ave. North ~ Plymouth, MN (refrigeration contractor)
 - F. NEIL ADAMS CONSTRUCTION, INC. - Contractor / 6490 S. McCarran ~ Reno (general contractor)
 - G. BRYCON CORPORATION - Contractor / 134 Rio Rancho Blvd ~ Rio Rancho, NM (general contractor)

END OF CONSENT AGENDA

Motion: Approve the Consent Agenda, **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=3)

10. DISCUSSION ONLY (No Action - No Public Comment): Committee/Staff Reports

Public Works Director Mike Nevin:

- NDOT and Nevada State Public Works Division are working through issues regarding the siphon line replacement under Highway 580. It may be spring before construction begins.

Battalion Chief Jeff Nevin:

- There is one engine out on fire assignment in Washington. A second will be leaving for Idaho.
- The excavator for the fuels project should be here in a couple of weeks.
- Six interviews for new hires will be held September 2nd in hopes of having the new hires on line by September 21st.

Community Development Director Dean Haymore:

- Four new projects in TRI were permitted last week. Plans for two additional projects have also been received.
- Work is being finished with Comstock Mining Historical Foundation on the bathroom at Gold Hill Depot. Scott Keller has been doing the work and has been paid by the Foundation. Mr. Keller's work will be completed September 3rd and the Foundation will no longer be funding restoration at the depot. The remaining work to be completed will be put out to bid.
- Switch will be starting construction within the next couple of weeks.
- Tesla is moving rapidly with plans being submitted daily.

Community Chest Shaun Griffin:

- The final draft of the Operating Agreement/Lease with Nevada Health Centers has been received. This agreement will provide health services in Virginia City and Lockwood starting in October. Nevada Health Centers know the needs of these communities. Two people will be hired specifically for each site, and services will include senior outreach.
- The State Library staff will be conducting a site visit on September 22 to begin granting formal, full status as a library. Librarian Chris Klug has been very diligent in getting her para-professional librarian status.
- Good news from funders of phase two of the Community Center. Terry Lee Wells gave \$50,000, and a major donor has stepped up and will give a lead gift if written commitments from other donors and foundations are received. Five foundations have been contacted and will present to their respective Boards for written commitment.

Community Service Director Cherie Nevin:

- There was very good attendance at the Mark Twain Town Hall meeting. Thank you to the Commissioners, elected officials, and County staff for attending. It was a very positive meeting.
- The income survey for Mark Twain residents will be mailed this week. Residents who do not receive the survey by September 15th should contact Ms. Nevin.
- The Senior Center in Virginia City has teamed up with Catholic Charities of Northern Nevada to conduct a monthly food bank. The first will be September 8th, from 11 AM to 1 PM. In addition to the food bank, some senior outreach will be provided. Age guidelines apply. It is hoped to get Catholic Charities into Lockwood to provide case management outreach services.
- The Community Development Block Grant Annual Forum will be hosted in Virginia City at Piper's Opera House on September 15th and 16th. 45 to 50 attendees are expected.
- Donna Denham, working with a church in Sparks, has been conducting a food pantry in Lockwood twice a week.

Comptroller Hugh Gallagher:

- A conversation was held with the Nevada State Department of Taxation regarding the classification of the Virginia City Tourism Commission. Originally, the VCTC was classified as separate, local government. After research, the Department of Taxation has come back with the decision that the VCTC is part of Storey County and is not a separate, local government.

- An Ordinance needs to be passed merging the VCTC back into the County and an indebtedness report needs to be completed and filed.

County Manager Pat Whitten:

- The new company - Jet.com- is a great example of the diversity and excitement going on at the Tahoe-Reno Industrial Center.
- Progress is going forward rapidly on the Courthouse parking lot. Thank you to Chair McBride for input regarding the slope at the back of the parking lot. Public Works and the Wildland Firefighters are providing crew and equipment. Public Works will be removing the dirt and rock. The lot should be semi-graded and usable in two weeks and in time for Street Vibrations. There may be a wall in the southwest corner.
- An Assessor's Conference, with approximately 70 attendees, will be held September 16 and 17. Tours of TRI and the Marlette Water System will be conducted as part of the conference. This is the third government conference for Virginia City this year.
- Last weekend was the end of seven weeks of special events. The racers participating in the weekend hill climb were very generous in donating to the senior class project.

11. BOARD COMMENT (No Action - No Public Comment)

Commissioner McGuffey:

- The annual One Acre Association meeting was held in the Highlands last weekend. Commissioner McBride attended and there was a good turn-out.
- Commissioner McGuffey attended a tour, along with other member of the V & T Commission, of the rail yard. This was an opportunity to see what is going on there, including the weekly, monthly and annual maintenance of the steam engines.
- There was a lot of very positive news coverage of the hill climb event. It sounds like this event is growing.

12. DISCUSSION/POSSIBLE ACTION: Milan Drive Extension Reimbursement of Bid Approval

Vice-Chairman Gilman recused himself from the item due to having a pecuniary interest in the project.

Mr. Haymore presented an overview of the bid. There is a new company going in at the end of Milan Drive in TRI, which means the road must be extended. There are two separate bids, one for the pavement and installation in the amount of \$653,787. An additional bid is required for the design and engineering of the project. That is an additional \$142,938. Some of the work was already completed when Tesla came in.

Mr. Haymore recommends pre-approval for reimbursement when vouchers are submitted and when the funds are available, for a total of \$796,725.

Chuck Reno, Project Manager, with Farr West Engineering provided additional information regarding the project.

County Manager Whitten said that all work done previously was considered urgent to be completed and was done with County staff approval.

Mr. Haymore noted that Mike Nevin, Public Works Director, and Fire Chief Gary Hames provided a lot of input regarding this project.

Mike Nevin said the project does include project management and some oversight inspections to insure the project is being built to specifications. When it is time for the County to accept dedication of that portion of Milan Drive, all of the paperwork will be in hand. This project will be completed with a new type of asphalt that has a 20 year life expectancy.

Mr. Whitten stated that what the Commission is doing today is authorizing the project to go forward. The \$700,000+ will be fronted by the developer and upon completion the road will be offered for dedication to the County. When County accepts dedication of the roadway, it will become an obligation of the County to reimburse the developer under the Developer Agreement.

Commissioner McGuffey thanked Mr. Whitten for describing how this work is paid for. Mr. McGuffey also expressed appreciation that this bid is well under the highest bid.

No public comment.

Motion: Approve the Milan Drive Extension Reimbursement of Bid Approval, **Action:** Approve, **Moved by:** Commissioner McGuffey **Seconded by:** Chair McBride **Vote:** Motion carried by unanimous vote (Summary: Yes=2)

13. DISCUSSION/POSSIBLE ACTION: Approve application by Dr. Vincent Malfitano for Liquor and General Business licenses for The Bonanza & The Delta.

District Attorney Anne Langer presented this item on behalf of Sheriff Antinoro.

Ms. Langer stated the licenses being requested by Dr. Malfitano are the general business license, liquor license and a gaming license. At present, Bruce Dewing, the lessee of the Bonanza and the Delta, has these three licenses in place. According to Storey County ordinances, it appears that the County cannot issue licenses for two different entities for the same location. Mr. Dewing, the license holder, is current through September 30, 2015.

The alternatives of the Board are to deny the licenses at this time because the request is premature, or if approval is granted with some sort of follow-up, the licenses would not be issued by the Sheriff because presently there is already one person with the licenses in place.

Chair McBride explained that it is staff recommendation to deny the licenses as it would be a duplication of licenses for establishments already in operation. If Dr. Malfitano were to sever relations with Dewing Gaming to operate the businesses himself, there would be no delay in obtaining the licenses. There is no reason not to license Dr. Malfitano except for the fact that it would be a duplication.

Dr. Malfitano said it is his position to have the licenses approved but not issued. It is clear that there cannot be two licenses in the same location. The properties will be operated as non-gaming properties. The lease with Mr. Dewing will be terminated within days. Dr. Malfitano again

stated he would like to have the licenses approved but not issued and then he would not have to come back to the Board at a later time.

Chair McBride explained in the past there has never been an issue of approving a license and not having it issued. Licenses are issued immediately upon approval. Upon Dr. Malfitano taking control of the businesses, the application will be approved soon after. With approval of the Sheriff, the businesses could be operated before final approval from the Commissioners.

County Manager Whitten stated that Sheriff Antinoro asked Mr. Whitten to explain the licenses will be considered for approval. In the meantime, the Sheriff has traditional powers and authority to issue interim licenses. The Sheriff indicated that as long as the application is reconsidered within a reasonable amount of time, there would be no additional fees for background checks and, based on past practice, to refund any of the quarterly or annual payments made upon application.

Mr. Whitten reviewed what is received for the funds paid out for a background check. There are three levels of licensing: the general license for non-liquor business with no real background obtained. The next level would be the liquor/cabaret business with investigation above and beyond the general license level. The brothel licenses are highly scrutinized, patterned along the lines of a gaming investigation.

Public Comment:

Mark Joseph Phillips, Virginia City Resident: Asked that the physical addresses of the business be included in the record.

Pat Whitten indicated that the Delta address is 18 North C Street, and the Bonanza is 27 South C Street.

Motion: Deny the application by Dr. Vincent Malfitano for Liquor and General Business licenses for The Bonanza and The Delta, **Action:** Deny, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (Summary: Yes=3)

14. DISCUSSION/POSSIBLE ACTION: Approve second reading of Ordinance 15-266 an ordinance amending Storey County Code section 17.12.064 Public Utility Uses to establish a procedure for permitting aboveground utility projects and renewable energy generation projects and providing for other properly related matters.

Continued to November 3, 2015

15. DISCUSSION/POSSIBLE ACTION: Consideration of Commissioner request for County to provide necessary funding to cape seal the approximately 2 +/- miles of Cartwright Road owned by the Home Owner's Association(s).

Chairman McBride said this item is brought before the Board at his request. Storey County owns all of Lousetown Road and approximately 1.11.2 miles of Cartwright Road from the 341 entrance to approximately the Saddleback Road area. Storey County maintains all of Cartwright with the exception of a two mile section. This section is utilized by the homeowners as well as by school

buses, police, fire, and ambulance services. The estimate for the cape seal project is approximately \$132,600. Highlands residents have requested improvements on this section of road for many years. The County maintains and plows the roads in the winter enabling the residents, as well as school and emergency vehicles, to get in and out.

Commissioner McGuffey: Being a Highlands resident said he believes Cartwright Road was paved by the County at one time and left up to the association to maintain. The association does not have the funds to maintain this road, as well as the dirt roads. The big hang-up has been that the road is private property. Most of the feedback received by Commissioner McGuffey has been that the County should take care of the road. There was no opposition expressed at the recent One-Acre Association meeting.

Vice-Chairman Gilman: This issue has been brought up more than once. If the County undertakes the consideration of the cape seal project and the maintenance of this road, there should be some form of maintenance agreement. It is time to resolve this issue, as opposed to a "one-time only" project.

County Manager Whitten: In the two weeks since this item was brought up, the District Attorney's Office has been working diligently on this issue. Mike Nevin has obtained an estimate for the cape seal work. There are issues regarding liability, design standards, and so forth, that the County needs to be conscious of. In looking at the road, there is a lot of growth along the shoulders to be cut back - which will be a priority of the Fire Department once the excavator is in service. At this time we are walking the legal path in order to accomplish the project.

Vice-Chairman Gilman: The residents in the Highlands have made it clear that they want private roadways and private use of their community. There is a faction that is adversarial against the County doing anything within the community and with roadways/right-of-ways. This cannot be done without the approval and consensus of the neighborhood.

District Attorney Langer: One of the things the District Attorney's Office is working to provide is information as to whether or not this can be done legally. Especially in light of the fact of the County taking on potential liability having to do with privately owned property. This is not an over-night decision - it is a process. There most likely would have to be an Ordinance, with two readings - allowing for public comment. As stated by Chair McBride, this is a roadway important to Storey County, the Highlands, the Fire Station, and others using the road. It is not an easy issue. There are questions regarding responsibility and maintenance. The District Attorney's Office wants to present an opinion as quickly as possible, but wants to make sure that all issues and options have been thoroughly addressed.

County Manager Whitten: It is suggested to continue this item to the next meeting on October 6, 2015. The goal is to try to get all roads in the same condition within 12 months. This would mean having Cartwright Road in the same condition as Lousetown Road and the other roads that were done. Jay Carmona of the One-Acre Association has been great to work with. The Association appears very receptive to this solution. Mr. Carmona has reached out to the other Associations. Letters of request and support from the Associations are anticipated.

Vice-Chairman Gilman: Looking at USA Parkway, the County still owns 3 to 5 miles from I-80 into the Parkway and the State took over the maintenance of that roadway. This may be something to look at.

District Attorney Langer: One area where there may be an issue is the Code regarding the steepness of the roadway.

Chair McBride: We're looking at a one-time fix. Perhaps either two of the three associations combining forces, maybe form a General Improvement District. The two miles of Cartwright Road would still be the responsibility of property owners. For example, there is a prescriptive right held by NDOT on Highway 342 from the Fourth Ward School through Silver City - which is privately owned land. NDOT does all repairs and maintenance although it is private property.

District Attorney Langer: This is what is being worked on. The clarification is appreciated and once there is a request or plan, research can be continued.

Chair McBride: A simple cape-sealing will give the road several years of longevity.

County Manager Whitten: Mr. Whitten advised he will meet with the Public Works Director and report to the Commission at the next meeting.

No public comment.

Motion: Continue Item 15 to the October 6, 2015 meeting, **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (Summary: Yes=3)

Chair called for a 10 minute recess.

COMMUNITY DEVELOPMENT AND PLANNING

16. **DISCUSSION/POSSIBLE ACTION:** FIRST READING Ordinance No. 15-269: Application No. 2014-020 by the Tahoe-Reno Industrial Center, LLC to amend the text of Storey County Code Title 17 (Zoning Ordinance) by adding chapter 17.39 IC Industrial-Commercial Zone. The intent of the proposed IC Zone is to provide for certain mixed-use industrial and commercial uses where found appropriate by the board with recommendation by the planning commission. Additional information including, but not limited to, reports and the draft zone text may be obtained from the Planning Department at 775.847.1144 or planning@storeycounty.org.

Vice-Chairman Gilman recused himself from the item due to having a pecuniary interest in the project.

County Manager Whitten said there will be some anticipated changes between the first and second readings.

Outside Counsel, Robert Morris read the title of the Ordinance:

An Ordinance amending the text of Storey County Code Title 17 (Zoning Ordinance) by adding chapter 17.39 IC Industrial-Commercial Zone, and other properly related matters.

Commissioner McGuffey expressed concern that this is for the property located along the river and under Light Industrial Use under the items checked, it shows chemical and oil storage. Commissioner McGuffey would oppose this. Further along, it indicates light industrial is normally located near major arterial roads - I-80 and USA Parkway. Chemicals should not be stored by the river. It is noted there are chemical storage provisions in heavy industrial areas. The chemical storage provisions should be moved from the light industrial section to heavy industrial.

Chair McBride asked when the land is being developed, and there is a truck stop installed, wouldn't there be storage of oil and chemicals on site.

Commissioner McGuffey replied he is not concerned about what a truck stop would store, he is talking about companies storing solvents - cleaning solvents, which are quite common in industrial manufacturing. The Fire Department regulates this with contained storage.

Mr. Whitten indicated that Commissioner McGuffey has shared his concerns with Austin Osborne who is working through the specific definitions of the provisions. The property in question is prime commercial and not intended to be a chemical storage area. This will be addressed before the second reading.

No public comment.

Motion: Approve FIRST READING Ordinance No. 15-269: Application No. 2014-020 by the Tahoe-Reno Industrial Center, LLC to amend the text of Storey County Code Title 17 (Zoning Ordinance) by adding chapter 17.39 IC Industrial-Commercial Zone, **Action:** Approve,

Moved by: Commissioner McGuffey, **Seconded by:** Chair McBride, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=2)

17. DISCUSSION/POSSIBLE ACTION: FIRST READING Ordinance No. 15-268 (Zone Text Amendments) An ordinance amending Storey County Code Title 17 Zoning to update the procedures and requirements of the title by amending the following chapters: Ordinance title page; Chapter 17.03 Administrative Provisions; 17.06 Nonconforming Uses; 17.08 Zones Generally; 17.10 Definitions; Chapter 17.12 General Provisions; 17.15 P Public Zone; 17.16 R-1 Single-Family Residential Zone; 17.20 R-2 Multi-Family Residential Zone; 17.24 A Agriculture Zone; 17.28 C Commercial Zone; 17.30 C-R Commercial-Residential Zone; 17.32 F Forestry Zone; 17.34 I-1 Light Industrial Zone; 17.35 I-2 Heavy Industrial Zone; 17.36 I-3 Heavy Industrial Zone; 17.38 I-S Special Industrial Zone; 17.40 E Estate Zone; 17.44 SPR Special Planning Review Zone; 17.48 Historic Overlay District; 17.56 PUD Planned Unit Development; 17.76 N-R Natural Resources Zone; 17.84 Signs and Billboards; 17.92 Mineral Exploration Mining and Extraction; and other properly related matters.

County Manager Whitten presented this item. This codifies updates to zoning - County-wide. There are no material changes anticipated with this Ordinance, subject to input from the public and Commissioners.

Commissioner McGuffey said after reading the Ordinance it looks great.

Vice-Chairman Gilman commented that Austin Osborne has done an incredible job and feels that the Ordinance is ready to move forward. There has been a lot of community input at various meetings.

Mr. Morris read the title into the record:

An ordinance amending Storey County Code Title 17 Zoning to update the procedures and requirements of the title by amending the following chapters: Ordinance title page; Chapter 17.03 Administrative Provisions; 17.06 Nonconforming Uses; 17.08 Zones Generally; 17.10 Definitions; Chapter 17.12 General Provisions; 17.15 P Public Zone; 17.16 R-1 Single-Family Residential Zone; 17.20 R-2 Multi-Family Residential Zone; 17.24 A Agriculture Zone; 17.28 C Commercial Zone; 17.30 C-R Commercial-Residential Zone; 17.32 F Forestry Zone; 17.34 I-1 Light Industrial Zone; 17.35 I-2 Heavy Industrial Zone; 17.36 I-3 Heavy Industrial Zone; 17.38 I-S Special Industrial Zone; 17.40 E Estate Zone; 17.44 SPR Special Planning Review Zone; 17.48 Historic Overlay District; 17.56 PUD Planned Unit Development; 17.76 N-R Natural Resources Zone; 17.84 Signs and Billboards; 17.92 Mineral Exploration Mining and Extraction; and other properly related matters.

Public Comment:

Mark Joseph Phillips, Virginia City Resident: Asked Chair McBride to confirm that the Chair sits on the Storey County Historic Commission. Have the changes to Historic Overlay District been discussed at meetings of the Historic Commission?

Chairman McBride replied there has been no discussion at meetings he has attended. There does not seem to anything in the Ordinance that conflicts with the Historic Commission's jurisdiction.

Motion: Approve the FIRST READING Ordinance No. 15-268 (Zone Text Amendments), **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=3)

18. DISCUSSION/POSSIBLE ACTION: Special Use Permit 2015-027, by Ronald Jensen. The applicant requests a boundary line adjustment between the two properties located at 21410 Sazarac Road and 2115 Conestoga Road, Virginia City Highlands, Storey County, Nevada (APN: 003-052-46 and 003-052-47).

Planner Jason VanHavel presented this item. This is an application requesting a boundary line adjustment between two properties in Virginia City Highlands. The application is signed by Ronald and Carolyn Jensen, and Thomas and Erin Rahme.

Mr. VanHavel stated that the landowners noticed that a fence, a propane tank, and landscaping, on their properties did not follow their adjoining property line. The landowners worked together to compromise and agreed to adjust the boundary line to accommodate the infrastructure that was on the property. This application codifies the agreement between the landowners.

The Planning Commission recommends approval. No public comments have been received for or against this application.

No public comment.

Mr. VanHavel read the findings into the record as follows:

- 5.1.1 The Boundary Line Adjustment complies with NRS 278.475 through 278.477 relating to the change in location of boundary line; and
- 5.1.2 The Boundary Line Adjustment complies with all Federal, State, and County regulations pertaining to Parcel Maps, Boundary Line Adjustments, and allowed land uses; and
- 5.1.3 The Boundary Line Adjustment will not impose substantial adverse impacts or safety hazards on the abutting properties or the surrounding vicinity; and
- 5.1.4 The conditions of approval for the requested Boundary Line Adjustment do not conflict with the minimum requirements in Storey County Code Chapters 17.40 Estate Zone or any other Federal, State, or County regulations.

Motion: Approve Special Use Permit 2015-027, by Ronald Jensen requesting a boundary line adjustment between the two properties located at 21410 Sazarac Road and 2115 Conestoga Road, Virginia City Highlands, Storey County, Nevada (APN: 003-052-46 and 003-052-47), **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=3)

19. DISCUSSION/POSSIBLE ACTION: Special Use Permit 2015-028, Jeffrey Rockstrom. The applicant is requesting a Special Use Permit to conduct business outside of a permanent building, i.e., operate a Hot Dog Trailer in Virginia City.

Chairman McBride and Vice-Chairman Gilman each disclosed that they own a business on C Street.

Planner Jason VanHavel presented this item. The applicant, Jeffrey Rockstrom, is in attendance and available for comment and questions. The applicant requests a Special Use Permit to operate a hot dog trailer at the V & T Depot, during its hours of operation, and along C Street.

At the Planning Commission, it was determined that applicant's interest was to only operate on C Street during special events. It was concluded that the applicant will work through the Tourism Commission for special events.

This item applies to applicant's operation of a hot dog trailer at the V & T Depot location. The applicant has stated he has verbal authorization from the V & T to conduct his operation, but does not have authorization in writing. A vote by the Planning Commission to continue the item to allow the applicant to obtain written authorization was denied.

There were approximately 15 public comments at the Planning Commission meeting. Most comments were against the application in its entirety - along C Street and at the V & T Depot. A couple of comments were neutral, and there was one in support of the application.

The Planning Commission moved to deny the application for a Special Use Permit, 5 -2.

Staff is recommending denial of this Special Use Permit as well.

Commissioner McGuffey said he attended the Planning Commission meeting. One of the issues discussed was that applicant does not have written permission from the V & T to operate the hot dog trailer. Applicant is allowed to obtain a permit from the VCTC for special events.

Mr. VanHavel commented that with special events the VCTC identifies the location where vendors can operate.

Vice-Chairman Gilman asked if there was a plan for locating a business such as the hot dog trailer on C Street other than at a special event.

County Manager Whitten answered that the Planning Commission and staff have recommended to deny the application so there would be no provision other than special events. Mr. Whitten outlined the requirements for obtaining a permit from the VCTC for special events.

Chairman McBride commented that he is in favor of mobile vending for special events. Some of the merchants testifying at the Planning Commission didn't feel outside vendors were needed for special events. Chair McBride tends to disagree when it comes to special events. However, Chair McBride stated he does see where the merchants have overhead and someone coming in on busy weekends or holidays can take the "cream off the top" as they do not have the same overhead.

Applicant Jeffrey Rockstrom commented that he only requested to be on C Street during special events. The original request was to work at the V & T Depot, on their property. Tom Gray of the V & T gave verbal permission to work on the property. Mr. Rockstrom said he is a resident of the County, he pays taxes, and he will have to obtain licenses and inspections, just the same as the "brick and mortar" businesses. Mr. Rockstrom would like to work at the V & T seven days a week, as long as they are open. There are no food services down there. He has wanted to do this for five years. The cart is 80% complete.

Vice Chair Gilman said he feels having the hot dog cart at the V & T would be reasonable.

Chair McBride said there would need to be written permission before the Commission could go forward.

Mr. Rockstrom responded that Mr. Grey has given verbal approval, but would not put it in writing.

Pat Whitten suggested that Mr. Rockstrom consider conducting his business at Tahoe Reno Industrial Center. There may be way to have on-site storage of the cart so that it does not have to be towed back and forth.

Mr. Rockstrom said he is not adverse to this idea, but the distance is a big consideration.

Vice Chair Gilman said the Board would like to help Mr. Rockstrom, but is unable to so with the Special Use Permit. There may be other options.

Mr. VanHavel read the findings for denial into the record as follows:

5.2.1 Substantial evidence shows that the Special Use Permit may conflict with the purpose, intent, and other specific requirements of SCC 17.30 Commercial Residential Zone, 17.12 General Provisions or Chapter 17.03.150 Special Use Permit or other federal, state, or county regulations.

5.2.2 The conditions under the Special Use Permit do not adequately mitigate potential adverse impacts on surrounding uses or protect against potential safety hazards for public and surrounding uses.

No public comment.

Motion: Deny the Special Use Permit 2015-028 of Jeffrey Rockstrom, requesting a Special Use Permit to conduct business outside of a permanent building, i.e., operate a Hot Dog Trailer in Virginia City,

Action: Deny, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=3)

20. FOR POSSIBLE ACTION, LICENSING BOARD SECOND READINGS:

- A. SOLAR UNITED NETWORK -- Contractor / 3555 Airway Drive #314 ~ Reno (solar contractor)
- B. BI NUTRACEUTICALS, INC. - General / 625 Waltham Way #101 (milling botanicals) TRI
- C. UNIQUE BUILDING GROUP - Contractor / 6390 Greenwich Drive ~ San Diego (lathing contractor)
- D. A-Z TRUCK MARINE AND RV - General / 3033 Waltham Way (repair, parts, access.) TRI
- E. RICH DOSS, INC. - General / 201 Wild Horse Canyon Drive (transportation) MCC

On behalf of Community Development, Pat Whitten, requested that items a. and c. be approved, and items b., d., and e., be continued.

Motion: Continue items b., d., and e., **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=3)

Motion: Approve items a. and c., **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=3)

21. PUBLIC COMMENT (No Action)

Mark Joseph Phillips, Storey County Resident: In regards to the First Reading of Ordinance No. 15-269, Section 17.48, Historic Overlay District has been deleted. Mr. Phillips is concerned that the Historic Overlay District has been deleted altogether.

Outside Counsel, Robert Morris replied he noticed this as well. Most of the text has been moved into another section, not actually deleted.

22. ADJOURNMENT

The meeting was adjourned by the call of the Chair at 12:20pm

Respectfully submitted,

By _____
Vanessa Stephens Clerk-Treasurer

EXHIBIT 2

EXHIBIT 2



STOREY COUNTY BOARD OF COUNTY COMMISSIONERS MEETING

TUESDAY, OCTOBER 6, 2015 10:00 A.M.

DISTRICT COURTROOM
26 SOUTH B STREET, VIRGINIA CITY, NEVADA

AGENDA

MARSHALL MCBRIDE
CHAIRMAN

ANNE LANGER
DISTRICT ATTORNEY

LANCE GILMAN
VICE-CHAIRMAN

JACK MCGUFFEY
COMMISSIONER

VANESSA STEPHENS
CLERK-TREASURER

Members of the Board of County Commissioners also serve as the Board of Fire Commissioners for the Storey County Fire Protection District, Storey County Brothel License Board, Storey County Water and Sewer System Board and the Storey County Liquor and Gaming Board and during this meeting may convene as any of those boards as indicated on this or a separately posted agenda.

All items include discussion and possible action to approve, modify, deny, or continue unless marked otherwise.

1. CALL TO ORDER AT 10:00 A.M.
2. PLEDGE OF ALLEGIANCE
3. DISCUSSION/POSSIBLE ACTION: Approval of Agenda for October 6, 2015
4. DISCUSSION/POSSIBLE ACTION: Approval of Minutes for August 18, 2015
5. DISCUSSION/POSSIBLE ACTION: Approval of Minutes for September 1, 2015

CONSENT AGENDA

(All matters listed under the consent agenda are considered routine, and may be acted upon by the Board of County Commissioners with one action, and without an extensive hearing. Any member of the Board or any citizen may request that an item be taken from the consent agenda, discussed, and acted upon separately during this meeting. The Commission Chair reserves the right to limit the time allotted for each individual to speak.)

6. For possible action approval of Payroll Checks date 08/28/15 for \$439,338.52, date 09/11/15 for \$476,976.73, date 09/14/15 for \$117,294.43, date 09/14/15 for \$64,037.69 and date 09/25/15 for

\$407,693.92. Accounts Payable Checks date 08/04/15 for \$499,000.00, 09/04/15 for \$211,237.81 and \$10,732.86, date 09/08/15 for \$17,529.25 and date 09/18/15 for \$3,046,743.17 and \$6,780.98.

7. For possible action approval of Treasurer Report for August 2015
8. For possible action rescheduling of October 20th meeting to October 19th at 2:00pm due to a conflict with the First Judicial District Court calendar.
9. For possible action approval of Business Licenses First Readings:
 - A. **ROCK RAT ADVENTURES, LLC** -- General / 160 South A Street (guided UTV tours) VC
 - B. **MAVERICK TECHNOLOGIES, LLC** - Contractor / 265 Admiral Trost Drive ~ Columbia, IL (eng)
 - C. **PAPA FRED'S FOOD (DBA)** - General / 1575 Linda Way ~ Sparks (mobile food truck)
 - D. **PRECISION CONCRETE** - Contractor / 1640 West Brooks Avenue ~ N. Las Vegas (concrete cont.)
 - E. **JET.COM** - General / 2777 USA Parkway (fulfillment center) TRI
 - F. **RELIABLE PLUMBING** - Contractor / 4075 Desatoya ~ Reno (plumbing contractor)
 - G. **DUKE'S PLUMBING** - Contractor / 1424 Industrial Way ~ Gardnerville (plumbing contractor)
 - H. **FAMILY LANDSCAPE MAINTENANCE** - Contractor / 330 River Road ~ Dayton
 - I. **NEVADA COMMERCIAL COATINGS, LLC** - Contractor / 4890 Aircenter Cir ~ Reno (painting cont.)
 - J. **FARWEST INSULATION** - Contractor / 1220 South Sherman St., ~ Anaheim, CA (insulation contractor)
 - K. **MIDWEST RECYCLEING SERVICE & SALES, INC.** - Contractor / 855 Rowland Springs Rd ~ Cartersville, GA (install recycling equipment)
 - L. **TILE ALLIANCE, INC.** - Contractor / 4615 Aircenter Cir ~ Reno (tile contractor)
 - M. **PETRO SOLUTIONS** - General / 2511 Edgerock Road ~ Reno (truck storage @ 3033 Waltham)
 - N. **PLATINUM SCAFFOLDING SERVICES** - Contractor / 14950 Heathrow Forest ~ Houston (scaffolding)
 - O. **M G & H CONSULTING, LTD** - Home Business / 21570 Dortort Drive ~ VC Highlands (consultant)
10. For possible action approval of Sheriff Business Licenses First Reading:
 - a. The Hatchling House, a home day care in the VC Highlands

END OF CONSENT AGENDA

11. **DISCUSSION ONLY (No Action - No Public Comment):** Committee/Staff Reports
12. **BOARD COMMENT (No Action - No Public Comment)**
13. **DISCUSSION/POSSIBLE ACTION:** Approve second reading of liquor and general business license for Storey County School District for Piper's Opera House

14. **DISCUSSION/POSSIBLE ACTION:** Approve liquor and general business license for The Bonanza and The Delta

RECESS TO CONVENE AS STOREY COUNTY FIRE PROTECTION DISTRICT BOARD

15. **DISCUSSION/POSSIBLE ACTION:** Approval of Resolution No. 15-431 approving portal-to-portal payment for CFAA mutual aid requests.

ADJOURN TO RECONVENE AS STOREY COUNTY BOARD OF COUNTY COMMISSIONERS

16. **DISCUSSION/POSSIBLE ACTION:** (Continue until 11/02/15 board meeting) Approve second reading of Ordinance 15-266 an ordinance amending Storey County Code section 17.12.064 Public Utility Uses to establish a procedure for permitting aboveground utility projects and renewable energy generation projects and providing for other properly related matters.
17. **DISCUSSION/POSSIBLE ACTION:** Appeal for work card, submitted by Carmen G. Rivera.
18. **DISCUSSION/POSSIBLE ACTION:** Appeal for work card for Marisha Nolan, submitted by Don Gilman.
19. **DISCUSSION/POSSIBLE ACTION:** Appeal for work card for Stephen Jim, submitted by Don Gilman.
20. **DISCUSSION/POSSIBLE ACTION:** Request by Don Gilman for assistance re ad hoc rulemaking.

COMMUNITY DEVELOPMENT AND PLANNING

21. **DISCUSSION/POSSIBLE ACTION:** Variance 2015-029, by Hansen, Allen & Luce, INC., Attn: Vern Conder representing Refuse, Inc. The Applicant requests a Variance for a reduced setback to three feet from the required 50 feet side setback for the placement of a proposed well house on the property located at 2700 East Mustang Road, Mustang, Storey County, Nevada (APN: 004-111-20).
22. **DISCUSSION/POSSIBLE ACTION:** (Continue until 10/19/15 board meeting) **SECOND READING** Ordinance No. 15-269: Application No. 2014-020 by the Tahoe-Reno Industrial Center, LLC to amend the text of Storey County Code Title 17 (Zoning Ordinance) by adding chapter 17.39 IC Industrial-Commercial Zone. The intent of the proposed IC Zone is to provide for certain mixed-use industrial and commercial uses where found appropriate by the board with recommendation by the planning commission. Additional information including, but not limited to, reports and the draft zone text may be obtained from the Planning Department at 775.847.1144 or planning@storeycounty.org.
23. **DISCUSSION/POSSIBLE ACTION:** (Continue until 10/19/15 board meeting) **SECOND READING** Ordinance No. 15-268 (Zone Text Amendments). An ordinance amending Storey County Code Title 17 Zoning to update the procedures and requirements of the title by amending the following chapters: Ordinance title page; Chapter 17.03 Administrative Provisions; 17.06 Nonconforming Uses; 17.08 Zones Generally; 17.10 Definitions; Chapter 17.12 General Provisions; 17.15 P Public Zone; 17.16 R-1 Single-Family Residential Zone; 17.20 R-2 Multi-Family

Residential Zone; 17.24 A Agriculture Zone; 17.28 C Commercial Zone; 17.30 C-R Commercial-Residential Zone; 17.32 F Forestry Zone; 17.34 I-1 Light Industrial Zone; 17.35 I-2 Heavy Industrial Zone; 17.36 I-3 Heavy Industrial Zone; 17.38 I-S Special Industrial Zone; 17.40 E Estate Zone; 17.44 SPR Special Planning Review Zone; 17.48 Historic Overlay District; 17.56 PUD Planned Unit Development; 17.76 N-R Natural Resources Zone; 17.84 Signs and Billboards; 17.92 Mineral Exploration Mining and Extraction; and other properly related matters. Public participation is encouraged. Copies of the text amendments may be obtained from the Planning Department website at www.storeycounty.org/521/updates, at 775.847.1144 or from planning@storeycounty.org.

24. FOR POSSIBLE ACTION, LICENSING BOARD SECOND READINGS:

- A. **AMERICAN MINING & TUNNELING, LLC** - Contractor / 19208 E. Broadway ~ Spokane, WA (mining services)
- B. **P & L FENCING & IRON, LLC** - Contractor / 2842 Marco Street ~ Las Vegas (steel fabrication)
- C. **CROP PRODUCTION SERVICES, INC.** - General / 3005 Rocky Mountain Ave ~ Loveland, CO (distributor of crop input)
- D. **SOIL TECH, INC** - Contractor / 6420 South Cameron ~ Las Vegas (general contractor/engineer)
- E. **GARTNER REFRIGERATION & MFG** - Contractor / 13205 16th Ave. North ~ Plymouth, MN (refrigeration contractor)
- F. **NEIL ADAMS CONSTRUCTION, INC.** - Contractor / 6490 S. McCarran ~ Reno (general contractor)
- G. **BRYCON CORPORATION** - Contractor / 134 Rio Rancho Blvd ~ Rio Rancho, NM (general contractor)
- H. **BI NUTRACEUTICALS, INC.** - General / 625 Waltham Way #101 (milling botanicals) TRI
- I. **A-Z TRUCK MARINE AND RV** - General / 3033 Waltham Way (repair, parts, access.) TRI
- J. **RICH DOSS, INC.** - General / 201 Wild Horse Canyon Drive (transportation) MCC

25. PUBLIC COMMENT (No Action)

26. ADJOURNMENT

NOTICE:

- Anyone interested may request personal notice of the meetings.
- Agenda items must be received in writing by 12:00 noon on the Monday of the week preceding the regular meeting. For information call (775) 847-0969.
- Items may not necessarily be heard in the order that they appear.
- Public Comment will be allowed at the end of each meeting (this comment should be limited to matters not on the agenda). Public Comment will also be allowed during each item upon which action will be taken on the agenda (this comment should be limited to the item on the agenda). Time limits on Public Comment will be at the discretion of the Chairman of the Board. Please limit your comments to three minutes.
- Storey County recognizes the needs and civil rights of all persons regardless of race, color, religion, gender, disability, family status, or nation origin.

Notice to persons with disabilities: Members of the public who are disabled and require special assistance or accommodations at the meeting are requested to notify the Commissioners' Office in writing at PO Box 176, Virginia City, Nevada 89440.

Storey County is an equal opportunity provider and employer.

CERTIFICATION OF POSTING

I, Vanessa Stephens , Clerk to the Board of Commissioners, do hereby certify that I posted, or caused to be posted, a copy of this agenda at the following locations on or before September 30, 2015; Virginia City Post Office at 132 S C St, Virginia City, NV, the Storey County Courthouse located at 26 S B St, Virginia City, NV, the Virginia City Fire Department located at 145 N C St, Virginia City, NV, the Virginia City Highlands Fire Department located a 2610 Cartwright Rd, VC Highlands, NV and Lockwood Fire Department located at 431 Canyon Way, Lockwood, NV.

By Vanessa Stephens
Vanessa Stephens Clerk-Treasurer



Storey County Board of County Commissioners Agenda Action Report

Meeting date: 10/6/15

Estimate of time required:

Agenda: Consent ☐ Regular agenda ☒ Public hearing required ☐

1. **Title:** Dr. Vincent Malfitano, Liquor & General business license for The Bonanza & The Delta
2. **Recommended motion:** Approve application of Liquor & General business license for Dr. Vincent Malfitano for The Bonanza & The Delta Saloons
3. **Prepared by:** Brandy Gavenda, Admin. Asst.

Department: SCSO

Telephone: 775-847-0959

4. **Staff summary:** They took over operations 10/1/15 and a temp was issued.

5. **Supporting materials:**

6. **Fiscal impact:** None

Funds Available:

Fund:

___ Comptroller

7. **Legal review required:**

___ District Attorney

8. **Reviewed by:**

 X Department Head

Department Name: Sheriff, Gerald Antinoro

___ County Manager

Other agency review: _____

9. **Board action:**

☐ Approved
☐ Denied

☐ Approved with Modifications
☐ Continued

Agenda Item No. **14**

Exhibit 3

Exhibit 3

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TRANSCRIPT OF TAPE-RECORDED HEARING OF THE
STOREY COUNTY BOARD OF COUNTY COMMISSIONERS
STATE OF NEVADA
OCTOBER 6, 2015

IN THE MATTER OF MALFITANO, ET AL. VS. COUNTY OF STOREY

Job Number: 270972

1 MR. MCBRIDE: Call the Storey County Board of County
2 Commissioners meeting to order.

3 Uh, anybody who has, uh, any handheld devices, PDAs
4 or anything that might ring during the meeting, please
5 put them on silent now as not to disrupt the meeting.

6 And, uh, if you'd, uh, stand and join me in the
7 Pledge of Allegiance.

8 ALL: I pledge allegiance to the flag of the United
9 States of America. And to the Republic, for which it
10 stands, one nation, under God, indivisible with liberty
11 and justice for all.

12 MR. MCBRIDE: Nice to see a large attendance this
13 morning. Do we have any 49er fans in the audience?
14 Condolences. [laughter]

15 MR. MCBRIDE: It might've been a bad year to
16 schedule the Super Bowl at home -- at their home stadium.

17 We go along now to item Number 3. This is discussion
18 of possible action to approve the agenda for this date,
19 October 6, 2015. Does anybody have any comments on
20 today's agenda?

21 MR. WHITTEN: I have a couple, Mr. Chairman, while
22 Mr. Osborne makes his way up on some of the planning
23 commission items.

24 Um, staff asks that we delete item Number 8, uh,
25 from the consents agenda, rescheduling a meeting is no

1 longer necessary. The courtroom has freed up and is
 2 available for our regular scheduled date.

3 Uh, and also, I have a request that we move item
 4 Number 20 up, uh, requested by Don Gilman [ph], uh, up to
 5 just after item Number 16 and before item Number 17 and
 6 whatever Austin needs as well.

7 MR. OSBORNE: Thank you, Commissioners. I'm asking
 8 today that we continue items Number 16 and that item to
 9 be contin- -- continued to the 11/02/15 meeting, that we
 10 continue item Number 22 to the 10/19/15 meeting and
 11 continue Number 23 to the 10/19/15 meeting.

12 I also want to make a note on, uh, item Number 23,
 13 there would be an addendum that will come with that and
 14 1792 is a chapter of Title 17, uh, somehow did not get
 15 into the packet. Uh, there's mi- -- very minor changes in
 16 that, but nevertheless, needs to be included and will be
 17 included at that continued time.

18 MR. WHITTEN: And please note that the continuation
 19 dates on the last two Austin mentioned will now be
 20 October 20th, not October 19th since we're meeting on the
 21 regular date.

22 MR. MCBRIDE: Okay. Thank you. [inaudible] noted.
 23 Does anybody else have anything concerning today's
 24 agenda? Mr. Phillips [ph].

25 MR. L. GILMAN: Is it the 19th or continue to --

1 MR. MCBRIDE: It's going to be the 20th now, because

2 --

3 MR. L. GILMAN: Why?

4 MR. MCBRIDE: -- uh, it'll be on Tuesday, because

5 the -- the courtroom is freed up on that date. Mr.

6 Phillips, go ahead.

7 MR. PHILLIPS: Thank you. Um, Marcus Phillips, a

8 Virginia City resident. Um, this is the 6th of October,

9 2015. Uh, item Number 3, approval of today's agenda, this
10 is discussion before the approval.

11 Commissioners, I'd like you to consider, um, in
12 regards to agenda item Number 14, um, I noticed that --
13 that it was pretty vague.

14 I -- I con- -- I went to the sheriff's office last
15 week and found out that the liq- -- liquor license for
16 the Bonanza and the Delta sh- -- should be, uh,
17 separated. Uh, they're -- they're two separate licenses.

18 So yesterday, I filed with the county clerk a short
19 letter. County [inaudible] the board, Marshall McBride,
20 chairman of the board, uh, Gerald Antinoro, county
21 sheriff.

22 Um, [inaudible] Storey County Liquor and License
23 Board, please amend the agenda to read as follows, recess
24 to convene as the Storey County, um, Liquor License Board
25 and then split 14 into 14A and 14B. 14A, approve the

1 general license and regular liquor license for the Delta
2 Saloon, 18 South C Street, Virginia City, Dr. Vincent
3 Malfitano, applicant.

4 14B, approve general license and regular liquor
5 license for the Bonanza Saloon, 27 North C Street,
6 Virginia City, Dr. Vincent Malfitano, applicant. And then
7 adjourn to reconvene as Storey County Board of County
8 Commissioners.

9 I -- I'm -- I'm hoping that this, um, clerical error
10 can, um, be amended be- -- before it becomes public
11 record. We -- we went through this last meeting. I -- I
12 would appreciate it.

13 MR. MCBRIDE: Thank you.

14 MR. WHITTEN: Mr. Chair- -- Mr. Chairman, if I may,
15 I, uh, respectfully agree with Mr. Phillips in one case
16 and disagree on another.

17 Um, I believe Mr. Morris will -- will explain that,
18 uh -- uh, something about a belt and suspenders approach
19 that, uh -- that we could certainly do what Mr. Phillips
20 has suggested in terms of recessing to convene as the
21 liquor board, but that our, uh -- our -- our notice --
22 uh, our bold member notice up front at the head of the
23 agenda serves as well to denote that, uh, this board of
24 commissioners also serviced the liquor and gaming board,
25 amongst other boards.

1 However, I would recommend that we concur with his,
2 uh, 14A/14B approach in that we hear the liquor licenses
3 combined for the Bonanza and the Delta as 14A.

4 And then for 14B, since the sheriff is not a voting
5 member of the general license board, that we hear 14B
6 separately as general licenses for those two. And if Mr.
7 Morris wants to provide anything further.

8 MR. MORRIS: Uh, I believe, um, Mr. Whitten has
9 stated, um, what I -- I believe is that there's
10 sufficient notice that the liquor board is going to take
11 action because of the initial paragraph in -- in the
12 agenda.

13 Um, as always, I like to make sure that it's very
14 clear and I generally, uh, ask that, uh, the board re- --
15 recess and then re- -- um -- uh, adjourn, uh, when --
16 when they, uh, finish a certain item, but I think the
17 notice on the agenda is sufficient for it to go head with
18 the item today.

19 MR. MCBRIDE: Very good. Does anyone else have any
20 comments on today's agenda? Any other changes to be made?

21 Then at this time, uh, commissioners, uh, looking
22 for approval of today's agenda with the, uh, correct
23 change of being, uh, removing items Number 8, which is
24 canceled, uh, continuing Item 16 until November 2nd,
25 continuing Items 22 and 23 to October 20th here in this

1 room at 10:00 a.m.

2 And, uh, going ahead and breaking Item 14 into 14A
3 to approve, uh, liquor license and -- and 14B for the
4 approval of the general license.

5 MR. MCGUFFEY: Um, is, uh -- Items 22 and 23, does
6 that continue on 10/19 or 10/22 as you [inaudible]?

7 MR. MCBRIDE: It'll be 10:20, uh, because we've, uh
8 -- we've canceled the -- the, uh, meeting on the 19th,
9 because this -- this room is going to be occupied on the
10 20th for -- for district court and now it won't be.

11 MR. MCGUFFEY: Okay.

12 MR. MCBRIDE: So that date is open. So --

13 MR. MCGUFFEY: All right.

14 MR. MCBRIDE: -- so --

15 MR. L. GILMAN: I move to approve the agenda for
16 October 6, 2015 with, uh, those changes that, uh -- that,
17 uh, you suggested.

18 MR. MCGUFFEY: I'll second that motion.

19 MR. WHITTEN: Uh, yes. And we're moving 20 up, uh,
20 after Item 15 and before --

21 MR. MCBRIDE: Yes. Okay.

22 MR. WHITTEN: -- uh, Item 17?

23 MR. MCGUFFEY: Yes.

24 MR. WHITTEN: Thank you.

25 MR. MCBRIDE: All right. Yeah. Thank you. And that

1 was also -- yeah. Mo- -- moving item Number 20 after Item
2 16, before Item 17.

3 MR. L. GILMAN: I approve the agenda with that
4 change.

5 MR. MCGUFFEY: I'll second that motion.

6 MR. MCBRIDE: And moving to second to prove the
7 agenda is amended. All those in favor, signify by saying
8 aye.

9 ALL: Aye.

10 MR. MCBRIDE: Aye. And the motion carries. Very
11 good. Now we're going to move along to, uh, item Number
12 4. This is discu- -- discussion of possible action. I'd
13 like to -- the approval of the minutes for August 18,
14 2015.

15 MS. STEPHENS: Mr. Chairman, uh, the reason that
16 this is on the agenda today is that you had already
17 approved the August 18th minutes, however, uh, chairman -
18 - or, uh, Commissioner, uh, Gilman also, uh, approved the
19 minutes and he was not there on the 18th.

20 So with that in mind, it would be, um, Commissioner
21 McGuffey and yourself that would be approving --
22 reapproving the minutes.

23 MR. MCBRIDE: Very good. Is there any other
24 discussion on this item?

25 MR. WHITTEN: Yes, Mr. Chairman. We also have one

1 small typo in the roll call. Uh, the last, uh, employee
2 listed, our fire inspector, uh, Fritz's last name is
3 actually Klingler, K- -- K-l-i-n-g-l-e-r. Uh -- uh, I
4 think we've got him a little mixed up with Joe Givens
5 [ph].

6 MR. MCBRIDE: Okay. All right. With those
7 corrections made, uh, Commissioner McGuffey, can I get a
8 motion to approve the minutes of August 18th?

9 MR. MCGUFFEY: I'll make a motion to approve the
10 minutes of -- uh, for August 18, 2015 with a c- -- uh,
11 spelling correction.

12 MR. MCBRIDE: All right. And I'll second your
13 motion. It's moved and seconded to approve the minutes
14 for August 18, 2015. All those in favor, signify by
15 saying aye.

16 MR. MCGUFFEY: Aye.

17 MR. MCBRIDE: Aye. And the motion carries. Moving
18 along now to item Number 5. This is discussion of
19 possible action, approval of minutes for September 1,
20 2015. Does anybody have any discussions on these minutes?
21 Hearing none, call for a motion.

22 MR. L. GILMAN: I'll move to approve the minutes of
23 September 1, 2015.

24 MR. MCGUFFEY: I'll second that motion.

25 MR. MCBRIDE: It's been moved and seconded to

1 approve the minutes for September 1, 2015. All those in
2 favor, signify by saying aye.

3 ALL: Aye.

4 MR. MCBRIDE: Aye. And the motion carries. Moving
5 along now to today's consent agenda, uh, keeping in mind
6 that we've removed item Number 8. Does anybody have any
7 questions regarding today's consent agenda? Hearing none,
8 can we get a motion for approval?

9 MR. L. GILMAN: I'll move to approve today's consent
10 agenda.

11 MR. MCGUFFEY: I'll second that motion.

12 MR. MCBRIDE: It's been moved and seconded to
13 approve today's consent agenda. All those in favor,
14 signify by saying aye.

15 ALL: Aye.

16 MR. MCBRIDE: Aye. And the motion carries. Okay.
17 Moving along now to item Number 11. This is discussion
18 only. No action or public comment will be taken. Here's
19 the committee and staff reports. Uh, why don't we start
20 with, uh, Mark Twain Community Center. Ron, uh,
21 Engelbrecht, I see you in the audience there.

22 MR. ENGELBRECHT: Ron Engelbrecht, Storey County
23 resident. Thank you.

24 MR. MCBRIDE: Good morning.

25 MR. ENGELBRECHT: Uh, the, uh, Mark Twain Community

1 Center I think has had a reasonably successful year so
2 far. Uh, this next, uh, November, we are planning to have
3 a, uh, arts and crafts fair again.

4 It was very successful last year and we expect the
5 same results this year. And then December, uh, with the
6 guidance support and the appetite of the sheriff's
7 department, we will have our annual spaghetti feed, which
8 is great.

9 And then, uh, there were some issues with our
10 veteran's memorial, uh, but it came down to the wire.
11 Everything worked satisfactorily. Uh, concrete was poured
12 yesterday. Uh, the concrete block is being donated by
13 Basalite.

14 So we will have that construction done in the next
15 week or two and then we will have a, uh, dedication
16 ceremonies, probably Veteran's Day coming up in November.
17 So we'll invite everybody to be there.

18 And, uh, we have, uh, contacted the local Vietnam
19 vets and the Ghost Riders and, uh, the American Legion.
20 So we'll have hopefully a good showing and a great
21 presentation and we'll serve a little lunch. But that's
22 it. Any questions?

23 MR. MCBRIDE: Anything. Great. Thank you, Ron.

24 MR. ENGELBRECHT: Thank you. And thank you for your
25 support.

1 MR. MCBRIDE: You bet you. Okay. Representing
2 Community Chest and the library, Shaun Griffin, you have
3 anything today for us?

4 MR. GRIFFIN: Good morning. Shaun Griffin, Community
5 Chest. Um, so I'm thrilled to announce that on October
6 28th, we'll be reopening our health center. Uh, it'll be
7 staffed by a physician's assistant, um, and, uh, they are
8 employees of Nevada Health Centers.

9 So I'd like to invite all of you to the grand
10 opening, uh, on October 28th from 1:00 to 4:00. They will
11 be working from 8:30 to 4:00 every Wednesday. I have this
12 in writing for you.

13 Uh, a week from that following Thursday, there will
14 s- -- be a similar, uh, opening in, uh, Lockwood that
15 will be staffed by an RN who will be primarily focused
16 on, uh, senior outreach.

17 And so on November 5th in Lockwood, we will also
18 have the beginning of Health Services there primarily for
19 senior outreach. This has taken a long time to, um,
20 negotiate, put forward and -- and, uh -- and get
21 completed, but I'm thrilled.

22 Uh, Nevada Health Centers is the largest FQHC in the
23 -- in the state. They run 17 publicly-funded health
24 centers and they're very excited.

25 I spent a great deal of time working with their

1 administration and their physician's assistant to get
2 very clear on what we needed and we -- we will have that
3 with the physician's assistant up here. So if a person
4 comes in and they have a specific illness, they can tr- -
5 - they can be treated there.

6 There's a possibility they'll be able to provide,
7 uh, pharmaceutical services to, um, and, uh, we've signed
8 a two-year contract with them and we hope to continue to
9 provide services in these two locales, uh, beginning very
10 shortly.

11 So please join us on the 28th for that if you're
12 able. I know you have a problem with three of you getting
13 together at the same time. So you can come one, two and
14 three. Um, I have -- I have information on that for you.

15 Also, um, on, uh, November 21st at Piper's, uh,
16 we're going to have, uh, Heidi Durrow, the author of The
17 Girl Who Fell From the Sky come do an author
18 presentation.

19 It was an award-winning book, um, a memoire and, uh,
20 Barrick's [ph] going to underwrite her -- her, um -- her
21 presentation. I'd really appreciate it if we can get a
22 large turnout for that as well. Tickets are available on
23 our website. Again, that's November 21st 4:00 to 6:00.

24 You'll see more press about it. And then finally,
25 we're making incredible progress on the community center,

1 the second phase.

2 Uh, I reached out to six foundations. All of them
3 are taking this request to their boards to bring a
4 written commitment back to us by November and once we
5 receive those written commitments, uh, we will go back to
6 a major foundation who has said they may step up with the
7 league if -- if I can get those six commitments.

8 So that's what I'm in the process of doing now. I'll
9 be more, um, able to tell you, uh, who and what amounts
10 as soon as it's -- it's -- it's clear to me, but I'm
11 thrilled that we seem to have turned this corner and
12 there's some real possibility for building in the near
13 future.

14 We're almost done with the plans, um, and, uh, I --
15 I think that things are going to happen real quickly. So
16 that's, uh, some good news for a Tuesday morning. Any
17 questions?

18 MR. MCBRIDE: Great.

19 MR. GRIFFIN: And I have, uh, information on the
20 two, uh, health center openings. Please, uh, stop by in -
21 - in either place and let us know that you're -- you're
22 interested.

23 MR. MCBRIDE: Very good.

24 MR. GRIFFIN: Anything else?

25 MR. MCBRIDE: Thanks, Shaun. Questions? None. Great.

1 Thank you.

2 MR. GRIFFIN: You bet. Thank you.

3 MR. MCBRIDE: All right. Our planning department,
4 Jason VanHavel.

5 MR. VANHADEL: Good morning. Jason VanHavel,
6 planning department.

7 Based on the recent sign variance case that came in
8 front of the board and a couple of other ongoing sign
9 issues around the county, it's become apparent that some
10 further updating, uh, is -- is meeting for the -- the
11 sign zoning, uh, Chapter 1784 and, uh, formed a group
12 where we're looking at that -- that chapter of our zoning
13 and evaluating some of the implications of it, looking at
14 some of the ongoing issues.

15 The group that I've brought together has
16 representation from the Comstock Historic District, a
17 couple of local business owners. We've met twice. We've
18 initiated some, uh -- uh, conversations, identified some
19 potential updates.

20 We're going to -- I'm going to convene the group
21 again and come up with, uh, another iteration of some
22 potential updates at -- at which point, I'll start
23 initiating a public conversation on the topic and on the
24 implications of a -- of updating the sign zoning on the
25 county.

1 So I just wanted to give that -- give you an update
2 on that information.

3 MR. MCBRIDE: Very good. Any questions for Jason?

4 MR. VANHADEL: Thank you.

5 MR. MCGUFFEY: Thank you, Jason.

6 MR. MCBRIDE: Great. Thank you. [inaudible], uh,
7 human resources, Mr. Osborne.

8 MR. OSBORNE: Thank you, Mr. Chairman,
9 commissioners. I talk of things both on the planning and
10 HR side of the county. I'll start with the, uh, Black &
11 Howell Plaza.

12 We all saw in the newspaper we got the corner of C
13 and Taylor. Uh, we are doing an interim project there
14 that'll essentially be Phase 1 of a Black & Howell
15 building reconstruction at that property in working with,
16 uh, Paul Ferrari [ph] and his team.

17 Uh, they are going through the engineering right now
18 essentially building a steel structure in that foundation
19 on which a platform will be constructed and be used as a
20 pocket plaza in the interim -- probably the interim,
21 meaning 5 to 10-year period.

22 Uh, there are renditions of it available. Anybody
23 can go and talk with me or even look at the newspaper,
24 uh, to see those.

25 Essentially, there'll be a deck, it'll have a, um --

1 you know, a shade structure, some benches and, uh, a few
2 kiosks around showing the history of what you're looking
3 at in a view shed and as well as the building itself.

4 Second project, being next door, the courthouse
5 parking lot project is still moving along. Uh, the
6 building department right now is doing, uh -- uh, s- --
7 water and electrical. Review of the plans, though, should
8 be done today.

9 I'm working with the engineers team on getting the
10 RFP structured and we'll have that sent out very likely
11 this week and will go out for bid.

12 Uh, there'll be a mandatory contractor meeting for
13 anybody that wants to bid on the project, to come to the
14 property and get a chance to see it in person and talk
15 about some of the challenges and the structural
16 components of putting that project together before bids
17 are accepted.

18 Uh, Comstock Mining, as you know, at this point is
19 going to donate -- or not donate, but very, uh,
20 drastically cut the costs of rip-rap material that would
21 be used for stabilization of the slopes in the parking
22 lot.

23 Most of that material is going to come out of the
24 Harris portal in its ideal type of rock for keying in on
25 slopes and stabilizing slopes. So they'll be bringing

1 that up. We'll be working with public works to transport
2 that material up and working with a contractor of, uh,
3 [inaudible] to get that in place.

4 State Route 342, as you know, is closed at the
5 moment from, uh, September 29th through approximately
6 November 12th.

7 t's possible the project, uh, would be done to get
8 that second, uh, phase of the highway completed before
9 the 12th, but the 12th of November is the target date for
10 that and it's very unlikely that it'll be any later than
11 that. I've been in communication with NDOT, the Army
12 Corps of Engineers, uh, Nevada Division Environmental
13 Protection, all the other agencies involved and that
14 project is moving fine.

15 The permitting is moving along fine and that road
16 should be open, uh, permanently momentarily. Uh, the
17 master plan process we've been going through three years,
18 at this point, uh, Jason and I have been working on
19 various chapters of that.

20 At this point, anybody can go on the website and
21 look at housing transportation, land use and population.
22 Those chapters are very substantially completed, uh, and
23 getting to the point of, uh, planning commission starting
24 to make final direction, uh, where we go with those.

25 The Larga Mecino [ph] area plan that we've referred

1 to as the large area north of the highlands and south of
2 Lockwood is complete and that is on the website, also,
3 for anybody to review.

4 And it talks about that area being, as far as
5 transportation, housing and industry and all other types
6 of land uses. That area is, uh, completed as far as a
7 draft. There are other elements of the master plan.

8 They're not necessarily as difficult as these
9 policy-directed pol- -- uh -- uh, chapters, such as your
10 land u- -- uh, your, uh, Bureau of Land Management
11 interface and your natural resources and some of the
12 others.

13 I have posted for you temporary, less than part-time
14 Planner I. Uh, I want this person ideally to be somebody
15 from Storey County, somebody that does not necessarily
16 have the letters behind his -- his or her name or
17 necessarily have the exact planning education necessary,
18 more of somebody who can write, somebody who can do data
19 analysis and somebody who understands the areas of our
20 county who wants to participate in the master plan
21 process and help get these other chapters written as well
22 as help with the chapters that are written already.

23 Uh, that posting closes today at 5:00 o'clock. I
24 encourage anybody in this room or out in the public who
25 wants to just be part of something and be, uh, involved

1 in the master plan to apply for this.

2 Again, it's a temporary job. When the master plan's
3 done, the position's done. There's no benefits or
4 anything like that. It's just a chance to be -- uh, a
5 paid position to be involved in this really exciting
6 project.

7 March, 2016 is the anticipated target date for the
8 master plan to be through the planning commission process
9 and then we'd start preparing it for, uh, this board and,
10 uh, adoption.

11 Uh, the Bureau of Land Management and I are
12 continuing to meet with Congressman Amodei's staff as
13 well as with our, uh, Congressman -- our former
14 Congressman Porter and his team on the land conveyance
15 between the Bureau of Land Management and Storey County.

16 We're still working on the language. Uh, Porter's
17 team as well as the Bureau of Land Management Carson City
18 Office is working on bill draft language for the next
19 Congressional session to help clarify a couple, uh, needs
20 in the public law that was, uh, approved, but
21 nevertheless, we are still working together on just
22 working through the federal bureaucracy to get the
23 conveyance completed and moved over.

24 There's a lot of gears and a lot of moving parts.
25 It's going to take a substantial amount of time for us to

1 complete this, but it is inching, moving forward and is
2 moving in the right direction.

3 And last but not least, on the internal site, it's
4 that time of year again where we start to look at our
5 health benefits plans for our employees, and where they
6 are, and where they're going, and what type of experience
7 rating we're seeing over the last year period.

8 And this'll be in preparation for our annual, uh,
9 rest- -- or, um, open enrollment for health benefits,
10 which was in May, 2016.

11 Nevertheless, it's important now that we start
12 looking at where our trends are going now and there's
13 some concerns and there's some good things that we're
14 looking at. And these things will ultimately determine
15 what our rates will be for next year and what type of
16 insurance program we'll have next year.

17 I am working with our employees to put a committee
18 together like I do every year and that committee will
19 help steer the direction of where we go with benefits and
20 -- and what types of things we look at. Those are things
21 I have. Thank you.

22 MR. MCBRIDE: Any questions for Austin?

23 MR. MCGUFFEY: Yeah. I do. Uh, the, uh, document you
24 sent out on the Larga Mecina zoning --

25 MR. OSBORNE: Yes.

1 MR. MCGUFFEY: -- uh, I understand it's a draft, but
2 there was a couple spots where I think a -- a number for
3 acreage was just a couple zeros.

4 MR. OSBORNE: Yes.

5 MR. MCGUFFEY: You had a date that was four zeros.

6 MR. OSBORNE: Correct.

7 MR. MCGUFFEY: So I -- I just wondered if that was
8 A, D -- you know, A, D or B, C; you know?

9 MR. OSBORNE: I can help with that. At this point,
10 the entire master plan is drafted and there are a lot of
11 places where a date, I need to research to actually
12 validate that a date is correct. And then you'll also
13 notice a figure 00.

14 Well, once that plan is completed and we assign
15 numbers and Roman numerals to all those sections and
16 subsections, then you'll start seeing numbers pop up in
17 all of those empty spaces.

18 But for right now, yeah, I know there will be a date
19 there and to make sure it's 1942. I need to validate that
20 before I write the date. So I just put 0000.

21 MR. MORRIS: I was going to say you might invite any
22 written comments as people read these, um, new sections
23 to be sent to you so you could incorporate anything
24 that's necessary.

25 MR. OSBORNE: Thank you, Mr. Morris. And I agree 100

1 percent. I've been very clear in the master plan
2 workshops that we've had in all of our communities, that
3 I very much encourage anybody to either come to the
4 meetings or submit a simple email to me, make a phone
5 call or a formal letter, uh, in response to what they see
6 on the website as far as the drafts, what they hear in
7 the community or even what someone sees out their
8 backyard door.

9 Um, any comments are very important. They become
10 part of the record supporting the contents of the master
11 plan and they'll be part of the permanent record for that
12 and I very much encourage it. Thank you.

13 MR. MCBRIDE: Any other questions?

14 MR. MORRIS: Thank you, Austin.

15 MR. OSBORNE: Thank you.

16 MR. MCBRIDE: All right. Fire Protection --
17 Protection District, Chief Hames.

18 MR. HAMES: Good morning, Commissioners. I'm here
19 this morning, uh, gallbladder free, I'm happy to tell
20 you.

21 Um, if you don't know, I was out the two weeks. I
22 know the board does, Pat does. Um, but before I get into
23 my presentation, I just wanted to sincerely thank my
24 staff.

25 Uh, it's a great staff. I was gone two weeks. Never

1 missed anything, everything got done on timelines.

2 Um, so the battalion chiefs, Battalion Chief Adkins,
3 Dufresne and Nevin, um, did phenomenal work while I was
4 in my absence.

5 Uh, Fritz Klingler, our fire prevention officer, um,
6 was able to work towards an end product of issuing a
7 temporary C of O in cooperation with Tesla and the
8 building department last Thursday.

9 Um, that's a huge milestone and I just want to thank
10 Fritz and all the battalion chiefs and all of my staff
11 for, uh, taking care of business while I was gone for a
12 couple weeks. So that's it.

13 Um, I'd like to talk a little bit about, uh, fuels
14 management. Uh, you know that we've received the two
15 grants. Uh, one is a two-year old grant that expires in
16 May. Uh, that particularly involves the highlands.

17 Um, we'll be starting that and we're transitioning
18 our fire seasonals over to fuels crews. Um, our excavator
19 with the mastication head will be 100 percent done and
20 delivered Thursday.

21 So hopefully next week we'll start out in the
22 highlands. Um, we're probably going to start out in the
23 40-acre areas, um, just to kind of see how that machinery
24 -- machinery works, um, see how far it throws stuff so
25 we're not breaking windows in houses or cars, because

1 people really don't like that much.

2 Um, and then we'll be working the highlands, working
3 our way back toward Six Mile Canyon. Um, yeah. That's the
4 plan so far with fuels. Um, we'll be working somewhat in
5 the top of, uh, lack of a better term, Bailey's Canyon as
6 well.

7 Uh, it's that area as you're driving up Geiger Grade
8 off to the south side where you see little pockets of
9 dead and dying trees. Um, our crews will be in there
10 after the first hard freeze and falling trees and trying
11 to pack them out or burning onsite.

12 So those -- we're also on the 1-acre and 10-acre
13 boards' agendas this month to go out and give a
14 presentation on what it is exactly we're going to be
15 doing.

16 Um, we'll have one of our fuels, uh, foremans
17 talking to residents door-to-door talks like we've always
18 tried to do. Um, so if it directly impacts a resident,
19 we'll work with them to do as much as they'll let us do.

20 Um, if it impacts residents with view sheds, we'll
21 be also talking to them as well. So that's kind of the
22 fuels project portion. Uh, Fire Station 75 at the
23 McCarran Complex is fully staffed now.

24 Uh, so we have two people on an engine, two people
25 on an ambulance and it's like the floodgates have opened.

1 I don't know what happened out there, but our call
2 volume, since we've been staffing, has literally
3 quadrupled out there.

4 Um, I'm not sure how to explain that, except they
5 know we're there, so they're using us now where they may
6 have been potentially putting people in -- in vehicles
7 and taking them to hospitals.

8 That's the only thing I can figure out. So -- and
9 that's going really well. Um, public works helped us out
10 with putting in an additional dorm room, um, on our side
11 of that McCarran Complex.

12 So thank public works for that work. Um, we're also
13 working with REMSA now that we're staff out there to
14 respond.

15 We also res- -- have responded automatic and neutral
16 aid with them, um, but we're working with some, um,
17 issues with critical care patients so that we're not
18 waiting for REMSA, um, I- -- mostly on I-80 corridor. If
19 we get there and it's a traumatic injury, we won't be
20 waiting for REMSA.

21 Um, they're good with that. We'll be signing some
22 inter-local agreements with them stating that as well,
23 because they're the franchise holders for Washoe County.
24 We're the franchise holders for Storey.

25 So, um -- but I think that's really important that

1 REMSA has been incredibly easy to work with. Um, that
2 hasn't necessarily always been the case in the last 20
3 years, but, um, it's all about patient care.

4 So I appreciate REMSA's efforts and I think it'll be
5 a much better response system out there. Um, open burning
6 press release was issued this week.

7 Uh, just a reminder, there is no open burning
8 allowed in the highlands and that was done at the, uh,
9 wishes, the 1-acre and 10-acre associations.

10 Um, so primarily, that's in Mark Twain, Painted
11 Rock, um, some outlying areas, but there is no open
12 burning in the highlands. So I think it says that in the
13 press release, but it's kind of hidden in there maybe.

14 Uh, the aerial platform for Station 75 was delivered
15 last, uh -- on the 30th of last week. Uh, it's Las Vegas
16 at Firetrucks Unlimited. Um, the first opportunity that
17 we have is the 12th.

18 We're going to fly down, do the pre-refurbishing
19 meeting with them. We're hopeful that within, they're 60
20 days, I'm saying probably 90 days we'll have that. So
21 hopefully by the first of the year, that 100-foot aerial
22 platform will be in service.

23 Every -- all of our staff will be fully trained and
24 operational by the first of the year is our goal. Um, the
25 CDBG grant for the fourth ambulance, um, is going through

1 and Sherry's [ph] kind of pushing that effort, but the
2 cabin chassis was ordered.

3 And I don't know why we -- it seems like every time
4 we order a cabin chassis, it's right at the wrong time of
5 year. So of course, that was the case this year. Um, that
6 won't be there until probably the first of the year.

7 We'll ship the ambulance down. Um, probably by
8 March, we'll have that fourth ambulance back. Um, and
9 that is it, unless you have any questions for me.

10 MR. L. GILMAN: I'd be curious what kind of, uh, the
11 call volumes are up there on 78. What -- what's the
12 nature of the calls? Is -- is there, uh, any particular,
13 uh, section or segment?

14 MR. HAMES: Um, mostly medical emergencies.

15 MR. L. GILMAN: Medical what?

16 MR. HAMES: And not -- not traumatic injuries, but,
17 uh, diabetic emergencies, chest pain, uh, difficulty
18 breathing calls are all on the rise out there.

19 And I -- I think those are all incidents that
20 honestly probably had been transporting them via private
21 vehicles, because they know of the long response times.
22 Um, now that they know we're -- we're there, they're
23 calling us for everything.

24 MR. L. GILMAN: Is it in a particular area, uh --

25 MR. HAMES: No. Uh -- uh, it's interesting, I -- I

1 tried to do that analysis as well to see if it was one
2 company or if it was one area. It really isn't. It's
3 widespread amongst most of the companies in that area,
4 within the McCarran area to [inaudible] area.

5 Interesting, though. I -- I've been tracking that
6 too, because I just -- I'm -- I'm curious to why that
7 call volume has gone up so much.

8 MR. L. GILMAN: I wonder if it's because of major
9 allergy season. I've been struggling with that myself out
10 there. I would've called you and said, help, I need some
11 oxygen.

12 MR. HAMES: Yeah. They bring needles and stuff.

13 MR. L. GILMAN: Maybe it's -- maybe it's the, uh,
14 pollen in the air or something.

15 MR. HAMES: It -- it very well could be, um, but
16 there's a -- there's a few diabetic patients out there
17 that, um -- that we've been going to multiple times and
18 that's been a lot of it. Any other questions for me? If
19 not, I will get out of here.

20 MR. MCBRIDE: No. Great, Chief.

21 MR. HAMES: Thank you very much.

22 MR. MCBRIDE: And with the comptroller's office, Mr.
23 Gallagher.

24 MR. GALLAGHER: Thank you, Mr. Chairman. Uh, for the
25 record, Hugh Gallagher, Storey County Comptroller.

1 Um, in your next meeting, um, we're going to --
2 we're going to schedule the, uh, budget to actual process
3 for, uh, all of our departments for the first quarter of,
4 uh, the fiscal year into 2016.

5 Um, as a sideline to this, uh, last week, there was
6 a County Fiscal Officers Association, uh, conference,
7 which included, uh, clerk treasurer's, uh -- uh, county
8 recorders, uh, finance directors and comptrollers for all
9 of the counties within Nevada.

10 Um, they had a breakout session where all the
11 finance, uh, managers and finance people and comptrollers
12 went to and, um, I got a chance to, uh, speak a little
13 bit about that and, um, I mentioned the, uh, budget
14 process that we go through.

15 And, uh, the consensus was they were simply aghast
16 at the amount of, uh, consideration that the commission
17 gives and the s- -- and the county gives towards the
18 budget process.

19 Uh, Washoe County couldn't believe it, Clark County
20 couldn't believe it. In fact, the gentleman from, uh,
21 Churchill County, um, who is a member of the local
22 government finance committee for the department of
23 taxation said it was absolutely unheard of.

24 Um, so it's a -- it's a congratulations to all of
25 our department heads, um, to our commission members for

1 this process and it -- the end result is we, uh -- is
2 what happens on the financial reports that, um, they're
3 accurate.

4 Uh, we pay a lot of attention to the things that we
5 need to spend money for, uh, but in the budget process,
6 it's also what's working well and some of those things
7 that we may have to make adjustments to in the future.

8 So, um, from that point, I thought everybody was,
9 uh, simply amazed at the process that -- that we go
10 through and the progress that we have made through this
11 process.

12 MR. MCBRIDE: Any questions?

13 MR. MCGUFFEY: [inaudible]. Uh, change in course
14 here a little bit. Is -- is there any progress on the VMT
15 audit?

16 MR. GALLAGHER: Yeah. Um, I was going to give it to
17 our outside auditors. They don't have the time to do
18 that. Um -- um, I was going to give it to another firm in
19 Reno. They don't have the time to do that.

20 I think it's about time we step up to the plate and
21 do it ourselves. I think -- I think we're going to do
22 this internally. Um, we are -- we are through our
23 documentation session as far as the audit -- our audit
24 period here is concerned.

25 So, um, I'm going to direct, uh, Jennifer McCain and

1 myself. We will handle -- we will handle this probably in
2 about -- in about -- it'll only take us about two weeks,
3 I'm pretty sure, but we'll get that thing done for sure.
4 MR. L. GILMAN: Okay. Thank you.
5 MR. MCBRIDE: Thank you -- thank you, Mr. Gallagher.
6 Sheriff Antinoro.
7 MR. ANTINORO: Nothing at this time.
8 MR. MCBRIDE: District Attorney Langer.
9 MS. LANGER: I do. I just, uh, wanted to make
10 everybody aware that the, uh, Hoover State -- uh, Hoover
11 property has been, uh -- uh, cleaned up and that we are
12 going to have a live auction of the valuables that were
13 found on the property.
14 And at the present time, the live auction is going
15 to be scheduled at the Hoover house on October 24th.
16 There will be, uh -- this -- we'll have publications. So
17 everybody will, uh, have knowledge of it.
18 But a lot of the, uh, valuables that were found were
19 things that really belonged to the Comstock and the
20 decision was made that, you know, hopefully a lot of them
21 will stay here through, uh, having the private auction
22 at the house. Thank you.
23 MR. MCBRIDE: Thank you.
24 MR. MCGUFFEY: Excuse me, is that -- is that the big
25 wooden building --

1 MS. LANGER: It is.

2 MR. MCGUFFEY: -- is it Washington Street?

3 MS. LANGER: On Washington.

4 MR. MCGUFFEY: Oh, okay. I saw a crew in there with

5 the metal scrappers and everybody in there.

6 MS. LANGER: Right. So -- yeah. So it was a five-day

7 process, a lot coming out of that house, but, uh, we're

8 finally moving forward and October 24th I'll have the

9 time and date and that will be in the newspaper.

10 MR. L. GILMAN: Okay.

11 MS. LANGER: Any other questions? Thank you.

12 MR. MCBRIDE: Thank you. Special Council Morris.

13 MR. MORRIS: Uh, nothing today. Thank you.

14 MR. MCBRIDE: County Manager Whitten.

15 MR. WHITTEN: Uh, several items. I always try to,

16 uh, recognize folks in the audience.

17 And, uh, in addition to, uh, former Commission

18 Sjovangen, we have a surprise guest appearance today from

19 the, uh, developer of TRI, Don Roger Norman is here. Mr.

20 Norman, always good to see you join us. So thank you.

21 Um -- uh, a couple of other things have come up.

22 Commissioner McBride, uh, mentioned that, uh, a few

23 meetings ago, I believe, uh, we initially began the

24 process of dealing with, uh, supporting, uh, a -- a, uh -

25 - a cape seal on the private owned portions of Cartwright

1 Road owned by the -- the two HOAs out there.

2 Both HOAs have sent, uh, the requisite letter asking
3 for our support and help. Um, it was scheduled to be on
4 agenda for today.

5 Uh, quite frankly, the legal department has -- has
6 found an approach, um, that will allow us to do this. Um,
7 what we're waiting for now is for the next paving season
8 to come.

9 So you'll probably see this on long-term hold, uh,
10 until we begin to get, uh -- uh, into the May zone,
11 whenever Mike says that these guys are ready to go. We
12 have the money available. We'll -- we'll send it to you
13 for approval. So -- okay?

14 MR. MCBRIDE: Okay.

15 MR. WHITTEN: Um, I'll defer to Commissioner
16 McGuffey and Chairman McBride on the -- those
17 participating in NACO down in Las Vegas last year -- or
18 last week, excuse me.

19 Uh, Shaun, you may rest assured, our clerk's office
20 is all over, uh, the 28th and the 5th dates and they'll
21 post notices of possible quorum. Thank you for the
22 advanced notice so you guys can come at 1:00, stay until
23 4:00, um, you know, have yourselves checked out, do all
24 that stuff.

25 Uh, parking lot, uh, again, I want to, since Chief

1 Hames is here and I wish, uh -- I wish Mike was too, um,
2 the work that's been done, and -- and I credit Austin
3 with this, because he's driving the bus, um, the work
4 that's been done has been probably the best collaboration
5 of county resources to date.

6 Um, the excavator actually came in ahead of the
7 masticator. Uh, they're all one in the same, they're just
8 interchangeable, uh, components.

9 Uh, Gary, through, uh -- through Mike Ructor [ph]
10 and the seasonal program and, uh -- and a gentleman by
11 the name of Don, I can never remember Don's last name,
12 uh, that, uh -- uh, those guys worked tirelessly and then
13 Mike's crew kicked it into gear to move, I can't tell you
14 how many tons of dirt went out of here.

15 But again, really, our county expense to date is
16 some staff time for some of the seasonal guys, you know,
17 and some fuel and, uh, that's about it so far.

18 So Austin has done a phenomenal job, uh, twisting a
19 few arms with Comstock Mining to get some rip-rap, uh,
20 you know, at a discount price helps.

21 So that parking lot's going to come in well under
22 budget by the time it's done and I -- I applaud
23 everybody's effort on bringing this together. And that's
24 it, Mr. Chairman.

25 MR. MCBRIDE: Very good. Thank you. Any questions

1 with that? [inaudible] clerk's office have anything
2 today?

3 MS. STEPHENS: No.

4 MR. MCBRIDE: Nothing? Okay. That concludes item
5 Number 11. We'll move on now to item Number 12. These are
6 board comments, uh, Vice Chairman Gilman.

7 MR. GILLMAN: Nothing today, sir. Thank you.

8 MR. MCBRIDE: Commissioner McGuffey.

9 MR. MCGUFFEY: Yes. Uh -- uh, about a little over a
10 week ago now, uh, the EDAWN had a luncheon to -- to give
11 out awards and, uh, one of our key employees here, uh, of
12 the [inaudible] members was, uh, awarded.

13 Dean Haymore was awarded with the -- the EDAWN pin.
14 It's a new thing that they came up with a couple months
15 ago. It's a pin that's a colorful pin about an inch and a
16 half tall, an inch wide, uh, with the scenic Nevada
17 scenery on it.

18 Uh, only one -- one other pin was ever awarded. The
19 first and only was awarded to our Governor Sandoval, uh,
20 a couple months ago. So this is kind of the first round
21 of, uh, awards that EDAWN will be -- be performing once a
22 month.

23 They give only four pins out a year. So I'd like to
24 congratulate Dean Haymore. He was, uh, re- -- recognized
25 for all his efforts in helping these companies move to,

1 uh, industrial park out of TRI.

2 Uh, he's been very instrumental holding their hand,
3 telling -- showing them what they've got to do next, uh,
4 actually fill- -- you know, getting the paperwork in
5 front of them, uh, giving them their grading permits
6 before they have their business license.

7 He's just -- he's a go-getter. He's really helping
8 these companies move -- move fast and that's what's
9 making the TRI so appetizing is our county is doing that
10 to help them get going.

11 Uh, second was, uh, of course, I was, uh -- uh,
12 admit -- uh, or USDA, uh, under Secretary Lisa Mensah,
13 uh, that, uh, when she, uh, made her appearance, uh,
14 Chairman McBride will -- will, uh -- will sound out --
15 out on that.

16 Uh, the NACO convention last week, uh, was -- was
17 pretty good. Uh, of course, we had our -- our workshops -
18 - the mandatory workshops for the commissioners. Uh --
19 uh, I've -- I've completed my mandatory workshops and
20 plus I've also taken other courses to -- to -- towards,
21 uh, becoming a certified public officer.

22 So, uh, that was very successful. We had some great
23 speakers, uh, very entertaining. Uh, I guess if -- if we
24 had any rec time, it was in the evening and we -- I took
25 a -- a free bus tour and it turned out that the, uh --

1 uh, the -- the tour guide on the bus was, uh -- what was
 2 his name --
 3 MR. MCBRIDE: Mark Hall.
 4 MR. MCGUFFEY: Mark Hall. I don't know if many of
 5 you have seen the show, uh, Pawn Stars. He's, uh, the guy
 6 in the red shirt and big hat.
 7 Uh, he runs the state's historic museum. Uh, very
 8 entertaining, uh, very personable, uh, and I've invited
 9 him up here hopefully in April if we can afford him,
 10 because he's -- he has to charge \$1,500. So -- so that's
 11 in the works, but I'm going to kind of twist his arm a
 12 little bit more.
 13 So, uh, then lastly was the Comstock Mine portal
 14 dedication to Randy Harris, the former, uh -- uh, past,
 15 uh, safety engineer there. Been there for many, many
 16 years.
 17 Uh, his wife and daughter were there to cut the
 18 ribbon to open the portal. Uh, and on the way in, I was
 19 able to see the rip-rap rock that they're going to put
 20 here in the parking lot. It's a nice gray -- light gray
 21 colored stone. It'll look nice.
 22 Uh, the portal is, of course, at the bottom of
 23 Lucerne. Lucerne pit is about 260 feet deep. Uh, at that
 24 time, when we had the dedication, it was about 200 feet
 25 deep in.

1 They're going about 10 feet a day. I think in the
2 newspaper, they said they're about 300. So they're --
3 they're making progress, uh, on that.

4 They also, uh, just had a tidbit of information,
5 because many of you haven't been down there for the tour.
6 Uh, they did build some giant steel doors, uh, covered
7 with heavy padded like pillows -- canvas pillows.

8 And so they close that up when they do blasting to
9 minimize any noise and dust. So -- and that's all I have
10 today.

11 MR. MCBRIDE: Okay. My apologies. I was going to
12 have you wrap it up and I was going to go next, but, uh,
13 I'm a little ahead of myself here.

14 Uh, for those of you that have, uh, have noticed in,
15 uh, one of the news releases that was put out here a
16 couple weeks ago, as Commissioner McGuffey alluded to,
17 that, uh, we had a visit from, uh, the U.S. Department of
18 Agriculture under Secretary Lisa Mensah.

19 Uh, she was touring the industrial park to see
20 where, uh, some of the, uh, properties that they've given
21 loan guarantees to, such as Aqua Metals and, uh, Fulcrum,
22 also, another company called Dynamic Isolation Systems.

23 So, uh, as everybody knows, I think it was in March.
24 We, uh -- we had the grand opening of our new wastewater
25 treatment plant on Six Mile Canyon. It was a \$5 million

1 project.

2 Uh, these projects were done in cooperation with
3 the, uh, USDA Rural Development. And, uh, how it works is
4 -- is they -- they -- they give us some grant money and
5 then they loan us some money for long periods of time at
6 very low interest rates.

7 So the, uh, wastewater treatment plant was a \$5
8 million project and after the project is complete, they
9 like to send someone from Wa- -- someone from Washington
10 out here to review the property and see everything was
11 done, uh, to specification.

12 So we had our engineers that are far west in our
13 public works department and, uh -- and our water, uh,
14 professionals there.

15 And, uh, so while, uh, Kent Evans [ph] was here from
16 Washington, he -- he toured the facility along with our -
17 - our Carson City, uh, delegation headed up by, uh,
18 Suzanne Adler and, uh, Cheryl Couch and Lisa Goodfellow.
19 And we gave them a little tour of the, uh -- of a water
20 line coming in from Marlette Lake.

21 So along these lines, uh, the county, with the
22 engineers have been working on replacing the -- uh, the
23 wastewater lines throughout Virginia City and Gold Hill
24 and -- and they've been working on this for, I think
25 seven or eight years.

1 And -- and they have it all planned out. Everything
2 was planned out about except where to get the money.

3 And, uh, what happened was is that after, uh, Ken
4 Evans was here, he was so impressed on how everything had
5 gone so smooth with the treatment plant, he said that we
6 should go ahead and, uh, through his staff, submit our
7 plans for what -- how we wanted to replace the system in
8 Virginia City and Gold Hill.

9 Uh, with that said, uh, an application was, uh,
10 placed, uh, with the USDA, uh, and I believe this was in,
11 uh, August -- August 20th and within 30 days, we got
12 notification from the USDA that they were very interested
13 in this and how we planned on doing this over five or six
14 phases over the course of many years as, uh -- as it's
15 going to be a very expensive project.

16 Uh, they suggested that we go ahead and ask for full
17 funding doing it in -- in one phase, because we would
18 save immense amounts of money by only having one setup
19 and one teardown instead of every time having to ramp up
20 every -- for every project.

21 So the Carson City Office and, uh -- uh, with, uh,
22 Cheryl Couch, uh, leading that up, uh, they sent in the
23 application asking for full funding and amazingly, it was
24 granted and that USDA Rural Development has awarded
25 Storey County a grant of almost \$9 million and a low

1 interest long-term loan of just over \$4 million. So we
2 can complete this project as soon as it goes to bid and,
3 uh -- and -- and we award the bid.

4 So, uh, this is one of those deals, uh, in the past
5 where we complained about unfunded mandates, because we
6 are -- we are mandated by the EPA to come into compliance
7 for clean drinking water and -- and clean wastewater.

8 And -- and here is our opportunity, with the
9 assistance of the federal government, that they're going
10 to -- they're going to give us the majority of the money
11 we need to complete this project.

12 Uh, they also helped fund our -- our, uh, fire
13 engines and our ambulance retrofits. So what this is,
14 this is a sign of good government and, uh, I know we all
15 complain about the feds at times, but this -- this is one
16 time where this really turns around and is a great
17 benefit to -- to this community and to the county.

18 Uh, Sarah [sic] Adler, uh, she heads the Carson
19 office, Cheryl Couch did the application, Lisa
20 Goodfellow, Barbara Allen, uh, and, uh --

21 These guys are -- they're just a great bunch of
22 people to work with and -- and they went out of their way
23 -- they -- they -- they love the Comstock so much that
24 they actually went out of their way, dedicated 100
25 percent of their time to make sure that this was -- was

1 put in on time and -- and -- and it was approved.

2 And so we -- we couldn't be more proud of -- of
3 where we are today with this. So once again, our hats go
4 off to the United States Department of Agriculture.

5 And one good thank-you is the undersecretary is, uh
6 -- is an Oregon girl. So she's from the west. And so that
7 -- that always helps to have people who are -- who are in
8 government who are familiar with your part of the
9 country.

10 So -- and that's all -- that's all I have on, uh --
11 on that. And, uh, I did, uh, join, uh, Commissioner
12 McGuffey in, uh, North Las Vegas, uh, last week for the
13 NACO con- -- Nevada NACO conference, which, uh, we're so
14 far out of town, it wasn't like you could go pal around
15 on the strip at night, because it was a -- an \$80 cab
16 ride just to get from the airport. So --

17 That being done, that's -- that concludes, uh,
18 public comment for the board here. Um, we'll move on now
19 to item Number 13 and this is discussion of possible
20 action.

21 We're going to, uh -- we're going to seek to approve
22 the, uh, second reading of the liquor and general
23 business license for the Storey County School District
24 for Piper's Opera House. And Sheriff, since you sit on
25 the liquor board, if you'd join us.

1 MR. MORRIS: And staff recommends that we follow the
2 consistent approach and take agenda Item 13 and have 13A,
3 uh, be considered for your liquor license since the
4 sheriff sits on that board and 13B be considered your
5 general license since the sheriff is not on the general
6 license board.

7 MR. MCBRIDE: Okay. Sheriff Antinoro.

8 MR. ANTINORO: Uh, we've completed the investigation
9 on the school board's liquor license. Um, there's no
10 reason why -- found why they should precluded from having
11 one and would recommend that they be approved.

12 MR. MCBRIDE: Okay. Any comments from the board?
13 Take public comment at this time. Does anybody have any
14 public comment on this license for Piper's Opera House?
15 Mr. Phillips.

16 MR. PHILLIPS: Yeah. Uh, Marcus Phillips, a Virginia
17 City resident. Um, I just wanted to, um, make sure that
18 it was the -- the -- the school board of trustees that --
19 that made this application.

20 MR. ANTINORO: It was.

21 MR. PHILLIPS: Okay.

22 MR. ANTINORO: It, uh, was the superintendent as the
23 -- basically the executive director who's -- he's the
24 main individual on there, but it is the school board that
25 made the application.

1 MR. PHILLIPS: Oh, good. Good. Okay. Thank you.

2 MR. MCBRIDE: Okay. Any other discussion on this

3 item?

4 MR. MCGUFFEY: Uh, is -- this isn't related to the

5 corner bar; is it?

6 MR. MORRIS: No. That's a -- they're a -- they're a

7 --

8 MR. MCGUFFEY: That's a separate -- that's a

9 separate [inaudible]?

10 MR. MORRIS: -- tenant -- a lessee. Yeah.

11 MR. MCGUFFEY: Okay.

12 MR. MORRIS: This would be primarily for upstairs

13 events.

14 MR. MCGUFFEY: All right. Okay.

15 MR. MCBRIDE: All right. Any other discussion?

16 Hearing none, call for a motion to approve the liquor

17 license for Piper's Opera House.

18 MR. L. GILMAN: I'll move to approve the second

19 reading of the liquor license and general -- or liquor

20 license for the Storey County School District for Piper's

21 Opera House.

22 MR. MCGUFFEY: I'll second that motion.

23 MR. MCBRIDE: Moved and second. All those in favor,

24 signify by saying aye.

25 ALL: Aye.

1 MR. MCBRIDE: Aye, unanimous. Okay. Moving along now
2 to, uh, Item B on this, 13B. This would be on the general
3 license, which I assume would be for selling souvenirs or
4 logoed items for the --

5 MR. MORRIS: Conducting events and that type of
6 thing.

7 MR. MCBRIDE: Conducting events. Yeah.

8 MR. MORRIS: Yeah.

9 MR. MCBRIDE: Okay. Commissioners, any discussion on
10 this? Anyone in the audience have any questions regarding
11 this license? Can we get a motion for approval?

12 MR. L. GILMAN: I'll move to approve the second
13 reading for the general business license of Storey County
14 School District for Piper's Opera House.

15 MR. MCGUFFEY: I'll second that motion.

16 MR. MCBRIDE: It's been moved and seconded to
17 approve the general business license for Piper's Opera
18 House. All those in favor, signify by saying aye.

19 ALL: Aye.

20 MR. MCBRIDE: Aye. And motion carries. All right.
21 Moving along now to item Number 14.

22 This is discussion of possible action, approve
23 liquor and general business licenses for the Bonanza and
24 the Delta. We'll handle this like the last item. We're
25 going to handle 14A as liquor and 14B as general.

1 Uh, at this time, I -- I'll make a -- a, uh,
2 disclosure that, uh, I am in business on C Street and
3 hold a liquor license. Uh, I do not have any pecuniary,
4 uh, interest in either the Delta or Bonanza Saloons.

5 MR. L. GILMAN: Um, I've also disclose that I, uh,
6 operate a business on C Street. Um, I have no pecuniary
7 interest in the Delta Saloon or the Bonanza.

8 MR. MCBRIDE: Okay. Madame D.A.

9 MS. LANGER: Good morning. I think initially, uh,
10 when looking for the application -- and we're starting
11 out with, uh, Delta and the Bonanza on the liquor
12 licenses.

13 Um, it came to my attention, through numerous phone
14 calls and discussions, that, uh, NRS 369.190 would apply
15 to the, uh, liquor license, uh, regarding both
16 establishments.

17 And under that statute, it talks about when you
18 apply for a liquor license, that your moral character
19 would be one of the, uh, items that the board would take
20 into consideration and that they shall take it into
21 consideration when making their opinion on whether to
22 grant a liquor license.

23 However, in, um, further reviewing the statute and
24 researching, uh, deeper into the subject, uh, it's come
25 to the DA's office attention that actually, when you're

1 looking at a -- a liquor license, the, uh, 369.190
2 applies to wineries or breweries, places along that line.

3 However, when you're looking for a -- to a general,
4 uh, liquor license, what would apply in this, uh,
5 scenario would be, uh, the county code.

6 And the county code, in this circumstance, is, uh,
7 Section 5. So at this time, uh, the person that's done
8 the major research in this area is Bob Morris.

9 And so he will be taking on the, uh, presentation as
10 to, um, just procedures that the board, uh, would
11 probably, uh, legally like to know before making this
12 decision. Thank you.

13 MR. MCBRIDE: Okay. Thank you. Mr. Morris.

14 MR. MORRIS: Uh, thank you, uh, Mr. Chairman. Um,
15 Robert Morris, for the record. Uh, I was just going to
16 point out a -- a few sort of legal, um, areas that
17 provide the groundwork for the board's decision in this
18 matter.

19 Uh -- uh, initially, NRS 244.350 is the
20 authorization, uh, allowing the board of county
21 commissioners, uh, pass -- or -- or become the liquor
22 board and to pass regulations on the sale of, uh,
23 intoxicating liquors in their, uh -- in this county.

24 And so the, uh, NRS section allows the county to go
25 ahead and adopt ordinances, uh, for that purpose.

1 Uh, the county has adopted two different sections,
2 uh, Chapter 5.04 and that's, uh, for business licenses.
3 There is an additional section, Chapter 5.12, which deals
4 with the sale of alcoholic beverages.

5 Now, there's, um, the basic requirements, uh, for
6 any license within the county is contained in Chapter
7 5.04. Uh, there is a hearing on application Section
8 5.04.050 and it talks about, um, the need to have a
9 hearing on any license.

10 Since the alcoholic beverage license has additional
11 requirements, there is an additional section in the code
12 that -- that deals with it.

13 Um, I would just point out a couple of sections, um
14 -- uh, as I said, um, 5.04.050 is -- uh, has, uh, a
15 section about the hearing on the application. Generally,
16 uh, for a business license, there's a Section 5.04.100,
17 which, uh, gives grounds for the refusal of, uh, a
18 license.

19 And that basically says that a license may be
20 refused by any licensing agency until the applicant
21 complies or agrees to comply with all the ex- -- other
22 existing ordinances, laws in force, including the county
23 master plan and a license may be revoked for failure to
24 comply therewith.

25 And then it, uh, goes on specifically to say, for a

1 business license, um, if, uh, there's any unpaid taxes,
2 that that's a ground for re- -- uh, refusing, um, the
3 license. Since this is the, um, license, uh, for the --
4 the sales of, uh, alcoholic beverages, I think it's
5 important to, um, look at the -- the requirement for that
6 one.

7 And it's basically the -- in the first section of
8 5.12.010 and it says, basically, all new applicants for
9 liquor license authorizing the sale of alcoholic
10 beverages on or off prem- -- premises shall provide the
11 county liquor license board with the following.

12 And it, uh, seems like the primary consideration is,
13 uh, A, uh, proof of financial standing to warrant an
14 expected satisfactory and profitable business operation.
15 And so that's basically the -- uh, to provide the board
16 evidence to show that, um, the applicant, uh, is -- has
17 the financial standing to -- to have a -- a profitable
18 business operation.

19 Uh, I could probably talk about, uh, some more
20 areas, but I think that provides the -- the board with a
21 basic legal framework for, um, their decision today.

22 Uh, the business license has a lower standard of --
23 of what's required for its approval. Since there is a
24 specific section about, um, the sale of alcoholic
25 beverages, uh, there is an additional, uh, requirement,

1 uh -- uh, proof of financial standing.

2 And so what I think is important for the board to --
3 to look at is, um, if there is evidence, um, to show that
4 or if there's evidence not to show that. And I would
5 encourage the board, uh, to ask questions about that.

6 Um, the thing that I think is important in -- in,
7 uh, items like this is that the board to specifically
8 call out the reasons why they are voting one way or the
9 other on an item such as this.

10 So if -- if there are particular reasons that --
11 that you feel like your voting, uh, convinces you to vote
12 in a certain way, I think that it would be a -- um, good
13 to put those on the record.

14 Um, I -- I do have a little bit more, but I think,
15 um, the sheriff can go now. It's, uh, generally under the
16 -- the code sections the sheriff is, um, to do an
17 investigation in- -- into the, uh, background.

18 Uh, some of the other sections is that, uh, complete
19 background as to the applicant's criminal record and
20 experience in saloon or liquor vending businesses. Um --
21 uh, so, um, he is the one that's to report to the board
22 on this matter on -- on that part of it. So I'll turn it
23 over to the sheriff at this point.

24 MR. ANTINORO: Okay. Uh, in this case, the applicant
25 did make application to the county for the liquor

1 license. Uh, we did conduct, uh, an investigation as
2 outlined in [inaudible], um, finding nothing of a
3 criminal nature that would preclude him from having a
4 license.

5 Uh, during the course of the investigation, there
6 was, um, showing no significant finances and financial
7 background knowledge to where, uh, there would be no
8 reason for him to expect -- or no reason to expect that,
9 uh, the business would fail.

10 Um, I -- I think the reason we're here in doing this
11 with such bravado or gusto, whatever you want to call it,
12 is because of what happened recently with this particular
13 applicant with gaming.

14 Uh, gaming has a significantly higher standard than
15 what our county ordinances have, uh, requiring a much
16 larger showing of financial background and, um, knowledge
17 of the industry, things like that.

18 Uh, for the purposes of Storey County licenses and,
19 uh, licenses we have issued in the past, uh, nothing was
20 found in the applicant's background or during the course
21 of the investigation that would preclude him from
22 obtaining a -- a Storey County liquor license.

23 MR. MORRIS: And -- and, um, what I would suggest is
24 that, um, since the -- the matter of -- of the gaming
25 control board and -- and its order has been raised as --

1 as, uh, something that, um, the board might want to
2 consider, I do have a copy of -- of that order and I
3 would provide it to the record.

4 Um, I don't know if the board has had an opportunity
5 to -- to read this. Um, the- -- there is one section
6 that, um, I think, uh, the board might want to consider
7 and it's on page 4. If I could just read a paragraph.

8 It says, "Virginia City Gaming, Malfitano and Delta
9 failed to carry their burdens to demonstrate adequate
10 business competence, uh, for the licensing applications.
11 This is demonstrated through the nondisclosure of
12 business related issues to the board, significant
13 disclosed and non-disclosed litigation, significant
14 employment related issues from Malfitano's assisted
15 living and his prior dental practice, significant
16 citations and actions by other regulatory agencies,
17 including" -- or "Concerning Malfitano's assisted bus- --
18 uh, living business and prior dental practice, uh, the
19 existence of numerous prior tax liens and appearance of
20 significant cash flow problems."

21 Um, and I think the only reason you would use that
22 is to consider, uh, the financial standing of the
23 applicant and whether that would, uh, assist you in -- in
24 deciding whether you could expect, uh, satisfactory and
25 profitable -- profitable business, uh, operation.

1 MR. ANTINORO: I would offer up at this point, in
2 response to Mr. Morris' comments, is again, gaming has an
3 extremely high standard.

4 Uh, several of the state agencies have standards
5 that far exceed what we have ever given consideration to
6 in Storey County in the past. Um, I know one regulatory
7 agency, they require you have \$20,000 cash sitting in the
8 bank at your disposal for your business.

9 I don't know specifically what gaming requires,
10 however, in the course of our investigation, I think Mr.
11 Malfitano has, uh, significant personal holdings, uh,
12 according to the financial documentation he provided to
13 us.

14 He does have, uh, liquid resources along with real
15 property holdings and, uh, the CPA that we discussed, who
16 is familiar with Malf- -- Mr. Malfitano's, um, finances,
17 said that, uh -- uh, he doesn't see any reason why, uh,
18 he would not be successful in this endeavor.

19 Um, and if -- if -- if we're going to truly consider
20 what gaming offers on his financial status, then we
21 should look at what gaming requires as the level of proof
22 of financial stability, because I'm -- I'm sure, uh,
23 Commissioner McBride, I'm sure that with your knowledge
24 of the gaming industry, they have quite a significant
25 level of proof that's needed.

1 Um, and if we're going to hold this applicant to
2 that standard that gaming requires for a gaming license,
3 because I mean, now we're going to have to go back and
4 reconsider all our other liquor applicants who may have a
5 difficult time reaching that same threshold.

6 MR. MORRIS: And -- and just to follow up on, uh,
7 the sheriff's comments, uh, I would remind the board that
8 -- that it's not the gaming, uh, requirements that, um,
9 the applicant has to meet.

10 Uh, today, what you're deciding is basically this
11 one sentence, proof of financial standing to warrant an
12 expected satisfactory and profitable business operation.
13 So I think, um -- uh, what you're, um, looking at is that
14 specific standard or -- or the requirement.

15 MR. ANTINORO: And I'll throw out, uh, I believe,
16 uh, the county manager included too all the investigative
17 reports.

18 Um, well, I did not include -- include the personal
19 financial matters, because there's some protected
20 information in there.

21 Uh, the bottom line estimated value of, uh, Mr.
22 Malfitano's holdings are in excess of \$5 million is what
23 is listed.

24 MR. MORRIS: Um, I think we could ask the applicant
25 --

1 MR. L. GILMAN: [inaudible]

2 MR. MCBRIDE: I don't see the applicant in the
3 audience.

4 MR. L. GILMAN: Well, I -- I think the applicant's
5 agent is here.

6 MR. MCBRIDE: Bruce, are you representing Mr.
7 Malfitano today?

8 MR. KIDDIS: No. I'm going to -- no. I'm not
9 representing him, but I'm a citizen and I wanted to
10 comment when appropriate.

11 MR. MCBRIDE: Okay. Very good.

12 MR. MORRIS: And then -- then [inaudible].

13 MR. MCBRIDE: Tina, are -- are you here to represent
14 Mr. Malfitano today? You are?

15 MR. MORRIS: Yeah. Well -- well, we can do that at
16 the end of the public hearing --

17 MR. L. GILMAN: Okay.

18 MR. MORRIS: -- and, um, I'm surprised that he's not
19 here.

20 MR. L. GILMAN: Okay.

21 MR. MORRIS: Um --

22 MR. L. GILMAN: His general manager, she's prepared
23 to, uh, give testimony.

24 MR. MORRIS: Okay. Yes. Uh, I -- I think the -- uh,
25 you sort of have, uh, staff's, uh, view of the matter and

1 -- and I think it's appropriate for the applicant or
 2 anybody that wants to speak to go ahead and -- and, um,
 3 give public testimony. My understanding is the chair
 4 might have some testimony as well, um, and then, uh, af-
 5 -- after that, if there's any other questions, I think we
 6 could answer them and -- and allow the board to go ahead.

7 MR. MCBRIDE: Okay. If you'd like to come up to the
 8 podium and, uh, if you'll, uh -- uh, for the record, go
 9 ahead and identify yourself once you get to the, uh,
 10 microphone so the clerk will, uh, [inaudible] the
 11 recording.

12 MS. PERKINS: Uh, Tina Perkins. I am the current
 13 general manager at the Bonanza and the Delta for Dr.
 14 Malfitano. Um, we have been working tirelessly getting
 15 these properties prepared and we had health inspections
 16 yesterday, which went very well.

17 Um, we were approved for the Bonanza Restaurant and
 18 the bar and four of the bars in the Delta were approved.
 19 We are not doing the restaurant there yet. It has a lot
 20 of work to do.

21 Um, we have retained at least 15 of the prior
 22 employees, um, 5 of them which came from the Sawdust
 23 Restaurant. We really are trying to keep everybody
 24 employed and everybody that has asked to stay has stayed.
 25 So that's --

1 MR. MCBRIDE: Okay. Does anybody have any questions
2 for Ms. Perkins? Uh, yeah. We might -- we might ask you
3 to come back up; okay? Thank you. Bruce, did you want to
4 give testimony?

5 MR. KIDDIS: Bruce -- Bruce Kiddis [ph], resident of
6 Carson City, friend of Dr. Malfitano for 20 years. If I
7 had to describe the gaming board commission process in
8 one word, I'd say tilt.

9 I doubt any of you could pass the gaming commission
10 if they decided we don't want to. I mean, I watched that
11 whole process. You can be accused and you get the
12 documents. Anyway, I've seen how they twisted all that,
13 but that's not the point.

14 This is Virginia City. This is the -- the Old West.
15 Commissioner Gilman, you represent the best of
16 entrepreneurship. I mean, this young man -- I'll be 81
17 tomorrow, so I can call him a young man -- this young man
18 has made his money the old fashioned way.

19 He paid the seller, Mr. Petrini, \$4 million. I'm
20 sorry if Mr. Petrini regrets selling it. He could have
21 very easily in the contract -- they spent a year
22 negotiating.

23 He could've easily have said, if you don't get your
24 gaming license, I get first option to buy it back. He
25 didn't. Yes, we're sorry to mach- -- to see the machines

1 leave the Delta, but they may come back.

2 So, um, you know, I -- I -- it -- it's -- uh, this
3 whole process, uh, to me, having been born in '34 and
4 gone through the Depression and the war, I mean, uh, it -
5 - it -- it -- it is -- it's discouraging. All we hear is
6 government, government, government.

7 And this young man is an entrepreneur and he
8 deserves a change to run a business. And if he doesn't
9 make it, he'll go bankrupt or he'll sell it. Thank you.

10 MR. MCBRIDE: Thank you. Anyone else like to give
11 public testimony? Mr. Gallagher.

12 MR. GALLAGHER: Uh, Mr. Chairman, for the record,
13 Hugh Gallagher, um, Storey County Comptroller. I'm a -- I
14 merely don't comment on these things, but I have a couple
15 of things to -- that I want to remind the commission
16 about or at least, uh, advise them on.

17 Uh, number one is first and best use, um, going
18 forward. Um, that was a gaming establishment, uh,
19 originally continued, uh, and the process was it was
20 going to be, uh, continued as such.

21 It is no longer going to be that case. Uh,
22 profitability at that point of time, uh, comes somewhat
23 salted down. I don't know that.

24 Uh, so, uh, understanding the fact that the gaming
25 control board decided not to license the applicant, uh,

1 is a big concern going forward as to the profitability of
2 those two locations. Um, the other side is is that, uh,
3 there has been a number thrown out as to, um, the net
4 worth of the applicant, which is somewhere around \$5
5 million.

6 I'm not sure if there's -- uh, if that's an audited
7 statement or just an application, but if that's the case,
8 then, uh, that also should be probably examined to see if
9 that is not true. Thank you.

10 MR. MCBRIDE: Thank you, Mr. Gallagher. Anyone else
11 like to make public testimony. All right. Mr. Morris, uh,
12 following up, I will, uh, disclose that I -- after --
13 after reading that the applicant was denied by the, uh,
14 Nevada Gaming Control Board, decided to attend the next
15 meeting, which is before the Nevada Gaming Commission,
16 which was two weeks later. And I sat in the room with,
17 uh, several people, some that are in this room today.

18 And it was, uh, three hours of testimony and, uh --
19 and as, uh, Mr. Morris pointed out that, uh, you have to
20 have, uh, a -- a strong financial standing in order to be
21 licensed and that's not only by the, uh, liquor
22 regulations, but by gaming.

23 Uh, gaming pointed out, uh, a whole host of
24 different things of the, uh, lawsuits, foreclosures,
25 delinquent tax payments, tax liens, default notices, uh,

1 all of these items.

2 Uh, it was -- it was very discomfoting sitting
3 there, uh, listening to this testimony. Um -- uh, the
4 vote against the applicant for the gaming control board
5 was 3-0 for denial. And with the gaming commission, uh,
6 the vote was 5-0 for denial.

7 Uh, we're talking about financial stability and, uh,
8 a net worth of approximately \$5 million, uh, that -- that
9 dwarfs in what, uh, Commissioner Townsend on the gaming
10 commission, uh, stated that the debt that Mr., uh,
11 Malfitano has is \$12 million.

12 So, uh, there, uh -- it gives pause to that also.

13 Uh, Bruce, uh, suggested that Mr. Malfitano, uh, paid \$4
14 million for the properties.

15 It's probably true, but it's no secret that there
16 are, uh, large sums of debt that are attached to this
17 purchase in the -- in the amount of \$2.5 million.

18 So, uh, if you look at his financials and he's
19 upside down by \$7 million and he has outstanding debt of
20 \$2.5 million, uh, by removing gaming from the properties
21 and reducing the -- the, uh -- the -- probably the cash
22 flow by 60/70 percent, uh, doesn't make it a sustainable
23 business.

24 And as the sheriff pointed out earlier, I do have a
25 little bit of knowledge when it comes to gaming. Uh --

1 uh, my family's been in the gaming business since, uh,
2 the prohibition on gaming was lifted in 1931.

3 Uh, so, uh, with that said, I -- this is a pretty
4 up- -- uphill climb, uh, to, uh, ask to be licensed when
5 it doesn't look like there's any financial stability in
6 order to -- to operate these two businesses.

7 MR. ANTINORO: I would like to just throw out
8 something for consideration. I'm not, uh -- not a legal
9 beagle or anything, but what kind of precedent are we
10 setting with this?

11 Uh, we just licensed an entity without going through
12 this discussion on finances. Now, we assume that the
13 school board has sufficient money to keep that license
14 going and run a sustainable business, different type of
15 business, but when we're going to start looking --

16 Uh, I know Mr. Morris says we're not holding him to
17 a gaming standard, but in essence, we are, because
18 everything that we're talking about is what gaming says,
19 what gaming says, what gaming says.

20 And if gaming is going to say he has lawsuits, and
21 tax liens, and judgments, again, do we go back and look
22 at our existing license holders? Because we have existing
23 license holders that have suffered some of those same
24 issues, maybe not for the same reasons, maybe for the
25 same reasons.

1 Um, I'm not judging the applicant's business model.
2 Uh, from a personal perspective, I think -- uh, like Mr.
3 Gallagher pointed out, I think trying to run it just as a
4 bar, that the business is probably going to fail, because
5 I just don't see enough business supporting it.

6 However, that's not my bus- -- business to run or my
7 decision to make. Um, but are we going to hold this
8 applicant to a different standard and what we have, at
9 least for the last five years that I'm aware of, and a
10 different standard to what we just held the last approval
11 to?

12 MR. MCBRIDE: Well, I don't know if we're holding to
13 a different standard. It's just under -- here under, you
14 know, liquor license provisions are in Chapter 5.12.

15 "An applicant is required to provide to county
16 liquor license board the proof of financial standing to
17 one expected satisfactory profitable business operation."

18 With everything that's been laid out, can you -- can
19 you operate a profitable operation when you've just --
20 when you've just taken out the major source of revenue?

21 MR. ANTINORO: Um, I don't know what the breakdown
22 of revenues were. I don't know what his entire business
23 plan is for the operation of the buildings.

24 All I'm looking at is the consistent application of
25 the ordinances and the issuance of the liquor licenses

1 and I'm just wondering if we're treading on dangerous
2 waters, because it is -- it seems to me like a different
3 standard, but --

4 MR. MCBRIDE: I'd like the other commissioners to
5 weigh in on this.

6 MR. L. GILMAN: I'm -- I'm very, very troubled, uh,
7 in trying to weigh this evidence between two -- I -- uh,
8 the elephant in the room is the -- is the gaming board,
9 uh, review and analysis and I have reviewed that.

10 And -- and I'm going to assume that they had
11 investigative staff that was very qualified and they
12 looked carefully at this individual beyond perhaps what
13 we would do for a license, but, um, I can't ignore the
14 fact that were, uh -- that were explained in that
15 particular program.

16 And -- and if you follow what they found and the
17 reason they denied that gaming license, I don't see how,
18 as a body, that we can support, uh, a license for a
19 liquor license based upon our statutes. It -- it -- it
20 doesn't add up to me.

21 I understand the sheriff has done his investigation,
22 but I have another investigation over here that was done
23 by the gaming board in depth and I don't understand why
24 we're apart candidly, because the gaming board's license,
25 uh, investigation was clear and the violations are clear.

1 And the standard wasn't reached either for the
2 gaming license or in my opinion, for -- for a liquor
3 license. So I'm very troubled by that.

4 MR. MCBRIDE: Mr. McGuffey.

5 MR. MCGUFFEY: Yeah. Well, I -- I kind of find it,
6 uh -- uh, a tough pill to compare it with, uh, the school
7 board getting a -- a liquor license. They're not relying
8 on that liquor license to make lots of money. It's a perk
9 to get more business in receptions and in meetings of
10 that sort up there.

11 Uh, yeah. They do make some money. That's great.
12 That's -- that's -- they're trying to help support that
13 old building. It, uh, costs a lot of money to re- -- to
14 restore old buildings.

15 Uh, the -- as far as try- -- uh, are we going to
16 rely on the -- what the gaming board says? No. But it
17 sure gives you, uh -- the information in here sure gives
18 you an idea of what kind of person he is.

19 Uh, I mean, when they're -- they're saying that, you
20 know, on Page 4 here, "Other regulatory agencies
21 concerning this applicant's assisted living business and
22 prior dental practice, the existence of numerous prior
23 tax liens, appearance of sig- -- significant cash flow
24 prob- -- problems."

25 Uh, and -- and for the -- the landlord, he wasn't

1 even qualified to be a landlord. So there's -- there's no
2 -- he can't use somebody else's license.

3 He's -- you know, they're -- they put the hammer
4 down on him, but it kind of show you what kind of person
5 he's been. Has he changed? I don't know, I don't know the
6 man. So I -- I have a hard time.

7 I mean, the -- as you're looking at somebody who
8 lacks probity, uh, doesn't -- is not showing integrity
9 here, uh, to run a business and that's -- that's the way
10 the gaming board sees it. And with knowing that
11 information that they put out there as a public record is
12 like a question -- I would have to question that.

13 MR. ANTINORO: And again, the gaming board is
14 holding that position on the basis of their requirements
15 to hold a gaming license.

16 We have license holders in Storey County who have
17 had lawsuits, we have ha- -- we have license holders in
18 Storey County who have had judgments, we have license
19 holders in Storey County who have had tax liens.

20 Again, do we go back and review all of their license
21 now because we're going to hold them to a different
22 standard?

23 I could care less about Mr. Malfitano's business. I
24 could care less about gaming, because we're not talking
25 about a gaming license, we're talking about a Storey

1 County liquor license.

2 What I care about is that we are applying things
3 equally and fairly across the board to all our license
4 holders and all past, present and future applicants.

5 MR. WHITTEN: Can I [inaudible] -- can I
6 [inaudible]?

7 MR. KIDDIS: [inaudible]

8 MR. WHITTEN: Okay. I'd like to, uh -- I'd like to -

9 MR. MCBRIDE: We'll come back to you in a minute,
10 Bruce.

11 MR. WHITTEN: -- I'd like to extend, uh, the quote
12 into the record that Bob Morris started from Page 4 of
13 the gaming order, uh, and, uh, I believe Commissioner
14 McGuffey just touched on it. Uh, it continues on beyond
15 where it says, "And the appearance of significant cash
16 flow problems," which is where Council Morris stopped.

17 It says, "For the landlord applications, this is
18 demonstrated by significant issues concerning
19 foreclosures, delinquent tax payments, tax liens and
20 default notices concerning the real property of Malfitano
21 or business owned by Malfitano, which indicates Malfitano
22 was not suitable to be the landlord of the gaming
23 establishment."

24 Um, those were the basis for the gaming. I would --
25 I would tell you that those last ones that I've just

1 read, the foreclosures, the delinquent tax payments, the
2 tax liens, those are serious contraindicators of
3 financial standing.

4 Um, I issued these licenses for six years as
5 sheriff. I have sat in this seat for the subsequent 10
6 years of so, um, and I applied similar standards under
7 what are known in the industry -- in the banking industry
8 as the five Cs of credit where you're looking at
9 character, uh, and capacity as two of those major Cs in
10 order to extend things, like lines of credit, which I
11 did, um, secured and unsecured.

12 And I would tell you that once you become
13 knowledgeable -- once I became knowledgeable of this
14 level of concern from gaming, seeing the gaming's order,
15 in my opinion, you can't deny it.

16 Are we holding every other liquor license to the
17 same standard? I would argue that if we knew this type of
18 information about them, yes, we should, but we don't. In
19 this case, we know because of the gaming order.

20 We know because of the testimony you reflected that
21 you heard at the, uh -- at the gaming commission hearing.

22 Um, and I think once you're knowledgeable of this,
23 it really are serious indicators of lack of financial
24 strength and ability to -- to conduct a -- a business. So
25 staff recommendation would be to deny both liquor

1 licenses based on those findings.

2 MR. MCBRIDE: Okay. I'm prepared to take more public
3 testimony. Bruce, you wanted to, uh, come back up.

4 MR. KIDDIS: Earlier you approved your September 1st
5 minutes. In the minutes, on Item 13, it says, "If Dr.
6 Malfitano were to sever relations with doing gaming to
7 operate the businesses himself, there would be no delay
8 in obtaining the licenses. There is no reason not to
9 license Dr. Malfitano, except for the fact that it would
10 be a duplicate license." So that was a month ago. You
11 heard all about gaming.

12 You were also there, Commissioner, that, um, his
13 attorney, who had served on the gaming board, argued that
14 the standard for the gaming was different than the stan-
15 -- standard for being a landlord. So you heard that, but
16 it didn't matter, because, um, it was already -- the --
17 it -- it was already set.

18 Anyway, that's it. So what you say here, on
19 September 1st, is meaningless. So that's what your word
20 is. That's the story in Storey County, your word doesn't
21 count. It's -- you're a pathetic [inaudible] and do
22 whatever you want.

23 MR. MCBRIDE: Well, I'll re- -- I'll respond to your
24 comment. And you are correct, that is what was said in
25 the meeting here and I -- and I misspoke that day.

1 What I should've said, and -- and I'll say it right
 2 now, to correct the record, I -- I should've said that
 3 you can come back for consideration to have your license
 4 approved. I did- -- I -- I admit, I did misspeak. You're
 5 abs- -- you're absolutely correct.

6 But as -- as, uh, your friend's lawyer, uh, as he
 7 testified before the gaming commission, lost his argument
 8 all [inaudible] --

9 MR. KIDDIS: Yes.

10 MR. MCBRIDE: And here he was -- he is an expert,
 11 because he kne- -- he's an expert in gaming law since he
 12 was on the ga- -- since he was on the gaming board. So he
 13 went -- he went amongst his peers and lost, which rarely
 14 happens and it -- and it rarely happens that a person
 15 goes through the application process all the way to
 16 denial.

17 And I know this as a matter of fact, because myself
 18 and my brother had to go through the same scrutiny that
 19 your friend did in order for us to receive our gaming
 20 licenses.

21 It's -- it's -- it's arduous. Uh, they undress you
 22 all the way and when stuff like that comes out, that's --
 23 that's just the way it is. So, uh, most of the items that
 24 were there were items that were undisclosed, numerous
 25 lawsuits.

1 I think there was in excess of 40 lawsuits. Numerous
2 lawsuits were undisclosed, sexual harassment, uh,
3 settlements that, uh -- all of these things that were
4 undisclosed. So I'm not talking out of school here.

5 The facts -- the facts are the facts. He had an
6 option to go ahead and withdraw his application, never
7 did it, took it to the mat and he got beat. So that's --
8 that's the way it is with gaming.

9 We're sitting here reading this five-page letter of
10 denial -- or six pages. You've read it too. So this is
11 public record. I'm not hiding anything from anybody. This
12 is public record.

13 So, uh, Bruce, I know he's your -- I know he's your
14 friend -- I know he's your friend, but I have to -- I
15 have to look out for what's good for Storey County, this
16 community of Virginia City, the taxpayers and the
17 wellbeing of the people who work and live in this
18 community.

19 This has been the most controversial issue that's
20 come up in my almost three years sitting on this
21 commission. I've gotten more phone calls and more walk-
22 ups to me at the post office, people that are so upset
23 and displeased at the decision that now we're going to
24 turn the Delta into a sports bar.

25 We have a -- we have a history of gaming in there

1 from back in the days, uh -- uh, of Angela's father
2 Dominic [ph]. Dominic and -- and my -- and my grandmother
3 Murray [ph] both immigrated from Italy before World War
4 II and were -- and had friendly, uh -- uh, rivalry and
5 competition on C Street all of those years.

6 And I -- and this isn't the way it's supposed to
7 turn out, not at all. He -- he had time -- he had time --
8 the gaming commission awarded Mr. Duing [ph], the
9 operator, a 90-day extension to operate with a denied
10 applicant giving -- giving Mr. Malfitano time where he
11 could find other avenues to -- to either sell his
12 property, sell it to the operator or do something else.
13 He opted -- he opted to take this path.

14 And -- and from my chair, it's -- it's not a good
15 path. And -- and -- and that's why we have so many people
16 in this room today, because, uh, pretty much everybody is
17 displeased, except maybe you and Tina. So --

18 MR. KIDDIS: My apology. Thank you.

19 MR. MCBRIDE: Anyway, I'll take any more public
20 testimony. Uh, Nicole [ph], I think you had your hand up.

21 MR. WHITTEN: And I do, while Nicole comes up, have
22 one item to clarify. Further in the -- in the minutes,
23 uh, that Bruce was, uh, citing, uh, it does indicate
24 County Manager Whitten stated that Sheriff Antinoro had
25 asked me to explain the licenses will be considered for

1 approval. So we did correct your misstatement at the time
2 to indicate they'd be considered, they would not be
3 approved.

4 MR. MCBRIDE: Now --

5 MR. WHITTEN: And this just reflect what was said
6 and what was corrected.

7 MR. MCBRIDE: -- you can just read the highlighted
8 parts of the, uh, minutes, which is most, uh,
9 entertaining.

10 MR. L. GILMAN: Well, the decision was made on what
11 we knew at the time and, uh -- and of course, we now have
12 more information on the table and it's important that we
13 make the proper decision.

14 I'm still so perplexed on why the two reports and
15 investigations are so different. I don't understand that.

16 MR. MCBRIDE: Ms. Bart [ph].

17 MS. BART: Nicole Bart, Storey County resident. I
18 understand, uh, you know, the concerns here, but before
19 you go up the slippery slope of trying to apply a higher
20 standard as demanded by gaming to our own local standard,
21 let's go back to our own local standard.

22 Did he disclose -- do we ask, on our liquor lic- --
23 our liquor application on business license, for
24 disclosure of the issues that came up at the gaming
25 commission? Do we ask people -- do -- do we ask them to

1 tell us if they --

2 You know, most employment applications ask if you've
3 ever been convicted of a felony, you know, so on and so
4 forth. Do our applicants ask for disclosure of this
5 information?

6 MR. ANTINORO: Some, yes. Some of the financial
7 stuff, yes, some of it, no. Uh, all the criminal stuff is
8 asked for disclosure, things like that. There was no --

9 MS. BART: Okay. Did he --

10 MR. ANTINORO: -- there were no omissions by Mr.
11 Malfitano on what we inquired of.

12 MS. BART: So -- because if there's something wrong
13 with our process that allows this -- the level of
14 magnitude of issue to pass by our investigation, if -- if
15 that's what's happening, we need to plug that hole at
16 home.

17 If, on the other hand, on our application, it asks
18 for this information and he failed to disclose that, then
19 it sounds to me that we can deny it based on our own
20 local requirement that it get disclosed.

21 Because I'm concerned, and certainly, we've got two
22 other people here, that if we take a step outside our own
23 local realm and -- and regulations and now start to use
24 that higher standard of the gaming commission, it may
25 have implications and set precedence for us locally we

1 may not like.

2 I'm -- I'm just -- I'm just saying if the violation
3 is on our regulations, our applications, our ordinances,
4 that's clean for us to say a denial. If we're stepping
5 outside of that, that may cause some problems. Just
6 asking that question.

7 MR. MCBRIDE: Okay.

8 MS. BART: I'm not advocating for or against it. I'm
9 just saying it leaves you open.

10 MR. MCBRIDE: Thank you, Ms. Bart. Anyone else like
11 to give public testimony? Uh, yes. Ms. Coen [ph].

12 MS. COEN: Judy Coen, C Street business owner and
13 Storey County resident. Although I don't have a liquor
14 license, my business is just a general business license,
15 I think that number one, nobody on C Street likes to see
16 what's happening, because I'm there every day.

17 But I think if there is a discrepancy, I think that
18 perhaps, as you -- as there have been overhauls and other
19 -- the statutes and whatnot, perhaps Storey County needs
20 to be really looked at if there are people, like Sheriff
21 Antinoro said, that have some of the same problems.

22 Maybe the whole statute needs to be -- or the law,
23 whatever it's called, needs to be looked at. But I -- as
24 a business owner, I don't like to see all this happening.
25 I don't have a vote, I don't have a voice. I just have an

1 opinion. But that's all I'm going to say. Thank you.

2 MR. MCBRIDE: Okay. Thank you. Anyone else.

3 MS. LANGER: Chairmen, before the vote, I'd just
4 like to go over a few, uh, rules. As I talked about
5 earlier, one of the, uh, first issues that have, uh, kind
6 of been wafting around was under NRS 369.190, moral
7 character.

8 And I think a lot of the issues that have, uh, come
9 up, uh, before the vote is to look at the licensing
10 procedure having to do with the ordinances of Storey
11 County to get a liquor license, a local liquor license.

12 That comes down to proof of financial standing to
13 warrant an expected satisfactory and profitable business
14 operation, that's it. None of this moral character,
15 doesn't apply.

16 Financial wellbeing under the -- the local
17 ordinance, that is what you're looking at and that is
18 what I would direct you to as counsel, uh, or, uh, Storey
19 County District Attorney.

20 MR. MCBRIDE: Thank you, DA Langer. Anyone else?
21 Okay. Staff's recommendation.

22 MR. WHITTEN: Staff's recommendation is to deny both
23 liquor licenses for the grounds that have been explained
24 to you and that you have explained on the record, your
25 concerns.

1 Uh, deny both licenses for the Bonanza and the
2 Delta, liquor.

3 MR. MCBRIDE: Okay. That being said, uh, looking for
4 a motion.

5 MR. MCGUFFEY: In what exactly grounds? You want to
6 specify those grounds again?

7 MR. WHITTEN: Uh, I believe each of you stated, you
8 know, fairly clearly in the record that you believe that
9 there are reasons to be concerned over the financial
10 standing and ability to conduct a business.

11 MR. MCGUFFEY: Well, might we want to, uh, make a
12 decision later and kind of verify those standings or do
13 we need to?

14 MS. LANGER: Depending on what your motion is, if
15 you, uh, choose to approve or deny the license, please
16 make it specific as to your reasoning behind approving it
17 or denying it in your motion.

18 That gives everybody an opportunity to agree with
19 the specific reasons for denying or approving the
20 license.

21 MR. MCBRIDE: Okay. Calling for motion, uh, for
22 denial on this license. Uh, I think financial standing
23 probably is a -- is a -- is a good measure to go by.

24 MR. L. GILMAN: I would move to deny the licenses
25 for, uh, the liquor for both the Bonanza and the Delta,

1 uh, based upon, uh, the probability of financial
2 instability to operate successfully here in Virginia
3 City.

4 MR. MCBRIDE: Do I have a motion?

5 MR. WHITTEN: I'll second that motion.

6 MR. MCBRIDE: I have a motion and a second. Call out
7 individually, uh, for, uh, members of the, uh, liquor
8 board to vote. Sheriff Antinoro.

9 MR. ANTINORO: Nay.

10 MR. MCBRIDE: Sheriff votes nay.

11 MR. L. GILMAN: Aye.

12 MR. WHITTEN: Aye.

13 MR. MCBRIDE: And aye. The record show three
14 commissioners aye, the sheriff a nay. So liquor license
15 is denied. Can we get through the general license?

16 MR. L. GILMAN: Yes. You can. You bet.

17 MR. MCBRIDE: Okay. And now we're going to move
18 onto, uh, 14B. This will be licensing for the general
19 license for the Delta and the Bonanza.

20 MR. L. GILMAN: [inaudible] from this one. Is that
21 me, the general?

22 MR. MORRIS: Uh, if I could just address the board
23 again, uh, briefly.

24 Um, if there's consideration of refusal of a
25 license, um, Section 5.04.100, um, has the specific

1 grounds that you can use for refusal and that, um, is
2 basically, uh, a license may be refused by any licensing
3 agen- -- agency until the applicant complies or agrees to
4 comply with all other existing ordinances, law
5 enforcement -- or law in force, including the county
6 master plan and license, uh, may be revoked for failure
7 to comply therewith.

8 And so the requirement is a general, uh, requirement
9 that, um, the applicant abide by existing ordinances and
10 laws. And so the refusal would be based on them -- uh,
11 the applicant not, um, complying with existing ordinances
12 and laws.

13 There's also a section about -- the following
14 section is about, uh, any unpaid real property taxes. And
15 my understanding is that has not, um, been brought up.

16 Um, so the business license has a different, uh,
17 requirement for approval and -- and denial than the --
18 the -- the liquor one.

19 MR. WHITTEN: So as that pertains right now, um, it
20 would be staff's position, subject to, uh, further input
21 from legal counsel, um, that as far as the Delta is
22 concerned, to the best of my knowledge, uh, they are
23 current on inspection requirements for both building and
24 fire, um, and would be eligible to meet that burden of
25 standard.

1 Uh, however, the Bonanza is not. There are still
2 some fire code, uh, issues being worked on as we speak.

3 So staff's recommendation, uh, is to go ahead, I
4 guess and -- and, uh, recommend approval for the Delta
5 and continuation of the Bonanza, uh, therefore, revoking
6 any temporary licenses granted earlier, um, and, uh --
7 and allow them to operate, uh, without liquor or gaming.

8 So the Bonanza would -- would not be allowed to
9 operate.

10 MR. MCGUFFEY: In the past, have we granted them to
11 operate their business in -- while they're making their,
12 let's say, fire, sprinkler improvements or anything like
13 that?

14 MR. WHITTEN: That is correct.

15 MR. MCGUFFEY: We have?

16 MR. WHITTEN: Yes.

17 MR. MCGUFFEY: Yeah. So, uh, we might -- may
18 entertain that possibility.

19 MR. WHITTEN: Uh, I'd like to speak chief to
20 compliance with that or status of that, I'm not sure.

21 MR. HAMES: Uh, thank you, Mr. Commissioner. Um,
22 Gary Hames for the record, Storey County Fire Protection
23 District Fire Chief. Uh, we've been working with them for
24 the last probably nine months.

25 And I apologize not having exact dates. Um,

1 generally accepted practices for our distinct is six
2 months. Um, we've gone over by three months. I think it's
3 a point and time where that building's not safe.

4 That building was disclosed, from my understanding,
5 at escrow that had to be fire sprinkled. Um, it's going
6 into almost a year now. Um, I don't think it's a safe
7 building. I would recommend that you do not issue a
8 general business license for that facility.

9 MR. WHITTEN: Thank you.

10 MR. MCBRIDE: Do you have any questions on this?

11 MR. MCGUFFEY: I don't.

12 MR. MCBRIDE: Okay. Bruce, come on up.

13 MR. KIDDIS: Bruce Kiddis, Carson City. Would you
14 ask the chief if there is an agreement -- a written
15 agreement that says the sprinklers will be in by December
16 31st and that was negotiated in the county manager's
17 office. Is there agreement that says December 31st or
18 isn't there? There is.

19 MR. MCBRIDE: Chief.

20 MR. HAMES: Uh, thank you, Mr. Chairman. No. There
21 is not. There is an agreement in place that states that
22 it ties back to the gaming license approval. Uh, the
23 gaming license approval was not successful.

24 Um, in my opinion, that agreement is null and void,
25 because it -- it was tied to the gaming license. That

1 process was not fulfilled.

2 MR. MCBRIDE: Okay. Thank you, Chief. Any other
3 public comment on this? Any other questions from the
4 board?

5 MR. MCGUFFEY: Staff's recommendation to approve the
6 Delta business license and to deny the, uh, Bonanza
7 business license; is that correct?

8 MR. WHITTEN: That is correct. That is correct.

9 MR. MCBRIDE: So staff's recommendation is to, uh,
10 deny the Bonanza's general business license and to
11 approve the Delta's general business license.

12 MR. L. GILMAN: So moved. I would move to deny the,
13 uh, Bonanza business license and approve the Delta
14 general business license.

15 MR. WHITTEN: I'll -- I'll second that motion.

16 MR. MCBRIDE: And, uh, the denial would -- would be
17 lifted upon the time that the sprinkler systems were
18 completed with the Bonanza.

19 MR. WHITTEN: Uh, if you're going to -- if --

20 MR. MCGUFFEY: Reapply.

21 MR. WHITTEN: -- if you're going to do that, they'd
22 have to reapply.

23 MR. MCBRIDE: Reapply. Okay.

24 MR. MCGUFFEY: Reapply.

25 MR. MCBRIDE: All right. Motion on the floor is den-

1 -- deny the Bonanza business license and to approve the
2 Delta's general business license. All those in favor,
3 signify by saying aye.

4 ALL: Aye.

5 MR. MCBRIDE: Aye. That makes it unanimous. All
6 right. Um, we're going to go ahead and take about 10
7 minutes. We're going to go into recess right now. Come on
8 up, Bruce.

9 [audio break]

10 MR. MCBRIDE: First of all, is everybody ready?
11 Ready to go?

12 MR. MCGUFFEY: Yes. I'm sorry. Yes.

13 MR. MCBRIDE: Okay. Okay. We're going to reconvene.
14 The Storey County Board of County Commissioners meeting
15 and immediately recess to convene as a straight county
16 fire protection district board.

17 Item number 15, discussion of possible action
18 approval of resolution 15-431 approving portal to portal
19 payment for CFAA mutual aid request.

20 Chief Hames?

21 MR. HAMES: Thank you, Mr. Chairman.

22 Uh, the CFAA is, uh, a five party agreement between,
23 uh, federal parties, uh, U.S. forest service BLM,
24 California emergency service, Cal Fire, and then local
25 government.

1 Uh, we have an agreement that's been longstanding
2 for the past 15 years with them. In that agreement, it
3 allows and, uh, actually promotes portal to portal
4 payments because of the way they staff their fire
5 assignments. Uh, this is all relating to mutual aid
6 outside of the area over to California.

7 Uh, the agreement's said this portal to portal so
8 that they can run our crews 24 hours a day, um, on these
9 fire incidents. This is the only agreement that we have
10 in place. It's portal to portal.

11 Um, this past year, they've come out and said that,
12 uh, outside the agreement we also have to have a
13 resolution supporting that same language. So that's what
14 this is.

15 Uh, Mr. Loomis from the district attorney's office
16 has bedded this and given, uh, approval and concurrence.

17 MR. L. GILMAN: Okay.

18 MR. MCBRIDE: So as I understand, there's no
19 financial impact here. The agreements are already in
20 place. California has asked to, uh, address and ordinance
21 for them to, uh -- to satisfy their appetite.

22 MR. HAMES: Correct. It -- it's no change or
23 departure from past practices and the way which we've
24 always operated with them. Uh, they just require this
25 resolution now.

1 MR. MCBRIDE: This is a resolution; not an
2 ordinance.

3 MR. HAMES: Yep.

4 MR. MCBRIDE: Yeah. Commissioner McGuffey, do you
5 have questions on this?

6 MR. MCGUFFEY: Just out of curiosity, is, uh -- is
7 there, like, mutual fees involved? Like, when we send
8 something -- a truck and a crew over, there's a -- do we
9 charge what we normally -- we charge ourselves basically?
10 And -- or do we get a California rate? Do you know
11 what I'm talking about? What California [inaudible]? Do
12 we have to pay their rate?

13 MR. HAMES: We -- we do. Uh, it's a reciprocal
14 agreement. Uh, if we were to call California Officer of
15 Emergency Services or Cal Fire or, uh, any of the A2
16 aircraft or anything, it would be a reciprocal. It's all
17 broken down within the agreement that's been signed for -
18 - I want to say it -- it came in 2000, my first year as
19 fire chief.

20 So -- uh, but that is all spilled out. It's, uh,
21 negotiated each year and it really doesn't change much
22 unless you have a -- a personnel amortization change and
23 hourly rates.

24 MR. MCGUFFEY: Thank you.

25 MR. HAMES: But again, it -- it's -- it's exactly

1 the same thing we've done for 15 years, except now they
2 require a resolution. And I really wish I had, like, some
3 great reason that they require a resolution.

4 Um, I stopped at number five person in the chain of
5 command of asking why we need this. And then, uh, just
6 decided to put it on the reso- -- or on the agenda
7 because it was -- I -- I couldn't get a real answer as to
8 why we need a resolution supporting what a longstanding
9 agreement already says.

10 MR. MCBRIDE: Is there any public comment on this?
11 Hearing none. Motion for approval?

12 MR. MCGUFFEY: I'll, uh, call a move to approve the
13 resolution number 15-431 approving portal to portal
14 payment for CFAA mutual aid requests.

15 MR. L. GILMAN: I'll second that motion.

16 MR. MCBRIDE: Okay. It's been moved and seconded to
17 approval resolution 15-431. All those in favor, signify
18 by saying aye.

19 MR. L. GILMAN: Aye.

20 MR. MCBRIDE: Aye. Motion carries unanimously. Going
21 to adjourn as the fire protection -- protection district
22 board and reconvene as the Storey County Board of County
23 Commissioners.

24 Uh, number 16 has been continued until November the
25 2nd.

1 Uh, next item up is going to be item, uh, number 20.
2 We're going to, uh, move 20 up between 16 and 17. This is
3 discussion of possible action request by Don Gilman for
4 the assistance in reference to ad hoc rulemaking.

5 Mr. Gilman?

6 MR. L. GILMAN: Uh, yes. Mr. Chairman, uh, it's, uh,
7 known and clear that I have a procurian interest in the,
8 uh, business, uh, operations that will include items 17,
9 18, 19, and 20 on the agenda. And, uh, for that reason,
10 I'm going to recuse myself from discuss and/or, uh, uh,
11 voting on the issue.

12 MR. MCBRIDE: Very good.

13 MR. L. GILMAN: Thank you.

14 MR. MCBRIDE: Thank you, Commissioner.

15 MR. L. GILMAN: I'm going to join the audience.

16 MR. MCBRIDE: Very good.

17 All right. Don Gilman?

18 MR. D. GILMAN: Uh, yes. Donnie Gilman, uh, for the
19 record, uh, license manager of the Mustang Ranch.

20 Uh, I'm here before you, uh, at the sheriff's
21 request, uh, for help in, uh, regarding some of the work
22 hard issues that, uh, we are having.

23 Um, some of the issues that we were having is, uh,
24 a- -- ad hoc rule changes without notice, uh, or written
25 notice, uh, of what is expected of us, uh, on our

1 applications.

2 Um, and some examples of that is when we first start
3 applying for, uh, work cards for our -- our workers, uh,
4 it was to list all convictions within the last, uh, 10
5 years.

6 Um, that has progressed to all arrests and
7 convictions in the past 10 years, which then progressed
8 to all arrests and convictions of your adult life, which
9 then progressed one step further to include all of, uh,
10 your arrests as a minor.

11 Uh, and this has been -- in progression, uh, since
12 our, uh, facility has been open.

13 Again, nothing has ever been put in writing to us,
14 telling us what actually needs to, uh, be in this, uh,
15 application. And I cannot find a definition of criminal
16 record, uh, in Storey County. Um, every county is
17 different.

18 Um, I've looked at several different counties on
19 what is required of a, uh, criminal record and -- and
20 nothing was, uh, uh, the same in any county.

21 Um, again, all of these changes were, uh, verbal,
22 uh, from the sheriff's staff. Um, when I asked to have
23 these things put in writing and sent to us, uh, we were
24 denied, uh, that to be put in writing sent to us.

25 I have never received anything, uh, in the mail

1 addressed to me, uh, as the, uh, manager of the Mustang
2 Ranch nor, uh, on an e-mail.

3 This has resulted, uh, in some issues where some of
4 our people have forgotten or not realize what they
5 actually had to put on their record, uh, which has caused
6 a ban for life, uh, from applying for a work card and a
7 refusal from the sheriff's office to accept a corrected
8 application.

9 So if you forget to put something on your
10 application, uh, that is in your criminal record and you
11 don't get in front of the commission within 30 days, you
12 may never ever apply for a work card in the Storey County
13 again.

14 I don't believe that that is in the ordinance. I
15 can't find anything that regulates that. Uh, and I would
16 ask that the commission look into, uh, this issue.

17 Also, regarding renewals on work cards. When you
18 have a work card already approved and you have worked for
19 us as these three have for several years, it seems to me
20 that it's very, uh, difficult for them to remember every
21 single arrest that they may have had in their background,
22 especially as these rules changes of what you're actually
23 supposed to put on your application.

24 If you applied for a work card and you've listed
25 everything and been approved for several years and then

1 you forget to put something, you're automatically denied
2 a work card and then you have to go in front of the
3 board.

4 If the sheriff's office has this information already
5 in a file on these people that have worked for us for
6 several years, I don't understand why a memory test has
7 to be made of putting everything on your record again
8 when you've already been approved for previous years. I
9 would ask that we come up with something in the ordinance
10 that would prevent this from happening from here on out.

11 In closing, I'm here with three workers that have
12 recently been denied work cards and the right to reapply
13 with a corrected work card application as each of them
14 did forget to put something on their record, none of
15 which would deny them from getting a work card or being
16 approved for a work card.

17 I would ask that you move to approve their work
18 cards, uh, so that they may start work again. All of them
19 have families. All of them provide for their children,
20 families. Uh, and to hold this off and keep them from
21 working any further, uh, would be a tragedy.

22 MR. MCBRIDE: I was just going to say that -- that
23 really addresses the three other items, 17, 18, and 19
24 are the appeal of the work cards for those --

25 MR. D. GILMAN: Yes, sir.

1 MR. MCBRIDE: -- people. And so what we should do is
2 keep to number 20, which is the --

3 MR. MCGUFFEY: The ad hoc.

4 MR. MCBRIDE: -- the ad hoc, uh, rulemaking --

5 MR. D. GILMAN: Okay.

6 MR. MCBRIDE: -- request. So just to keep -- keep
7 everybody on the same page --

8 MR. D. GILMAN: Yes, sir.

9 MR. MCBRIDE: -- if we could just stay with that one
10 first.

11 And I -- I also believe and I've -- I've, uh,
12 consulted with, uh, Council Morris, um, this is a
13 combination of both brothel licensing board and public
14 commission. So it would be appropriate to have Sheriff
15 Antinoro join us at the table as he did for the liquor
16 licensing.

17 MR. MCGUFFEY: And if it's okay, uh, Mr. Chairman, I
18 was going to give you a little background, um, on this
19 issue.

20 Um, as you may well recall, we -- we did do a rework
21 of the brothel ordinance, um, earlier this year. And, um,
22 there was a working group that spent quite a bit of time
23 discussing issues that, uh, had been raised and how to
24 actually deal with them.

25 And I -- I do recall this specific issue coming up

1 and I have to say there's -- there's, um, two sections of
2 the code that, uh, have something to do with it and it's
3 basically, um, the section on work cards.

4 And it says the sheriff must investigate through all
5 available means, accuracy of all information supplied by
6 any applicant on the registration form and that the
7 sheriff may issue a work permit after investigation and
8 determination the applicant has -- uh, meets the work
9 permit requirements.

10 And I remember there was, uh, a lot of discussion
11 about this. But the -- the problem, uh, uh, that -- that
12 came out that was not able to be dealt with there are so
13 many variations on use of discretion that is impossible
14 to put it into the, uh, code to say okay, sheriff, this
15 is how you must use your discretion in issuing work
16 cards.

17 And the position of Bill Maddox at the time when we
18 initiated this and I believe it's the sheriff and is
19 that, um, the alternative to, um, having the discretion
20 laid out in the code would be, uh, to leave it as it is
21 or to take away the discretion of the sheriff.

22 And that was what, uh, Mr. Maddox, and I believe the
23 sheriff, uh, proposed at the preferred alternative was
24 just to take away that discretion.

25 So after this discussion, it was determined that we

1 would leave the code the way it is, knowing that the
2 sheriff, as the administrator of the work cards, has
3 discretion, uh, in the issuance of, uh, work permits.

4 And so the -- the -- the issue has come up again,
5 um, but it, uh -- as I said, there are basically three
6 alternatives in -- in writing code on this.

7 And one would be to take away his discretion; second
8 is to leave it the way it is; and third is to, um, put in
9 a lot of text about how the sheriff is to use his
10 discretion, which I think is -- is pretty ineffectual.

11 And so, um, what -- what we were left with was
12 what's in the code today.

13 MR. ANTINORO: Let me throw out, uh, a couple of
14 clarifications on what Mr. Gilman offers. There has been
15 no change in the standard. The form -- the form simply
16 states and has said since I've taken over as sheriff five
17 years ago, have you ever been arrested? List all arrests
18 and convictions, period. That's it. That's all that says.

19 And [inaudible] conversation with them, he said that
20 the brothel keeps records and that they would double
21 check when there was renewals or submissions if -- if
22 there was something they previously had, they would try
23 to do a stop gap on that, um, to make sure that
24 everything gets clarified.

25 As we -- we specifically discussed, the sheriff's

1 house being a clearing house. It's really not our place
2 to track what their employees do or don't do from one
3 year to the next. We check the criminal backgrounds, do
4 the investigations, and that's the end of it.

5 Uh, just to give you a little bit of an idea, since
6 January 1st, we've processed 142 work cards. There's been
7 23 revocations and eight of which were allowed to come
8 and reapply.

9 Of those other 23 who did not, for whatever reason,
10 they chose not to reapply or else I believe there was one
11 who previously -- one or two who previously came before
12 the commission and there was no problems with them.

13 The issues that are here today, we'll talk about
14 those when they get there, but these are extreme
15 measures. The general process is that if it's -- if
16 they're a new card, if it's something that clearly was an
17 oversight, then yes, we allow them to reapply.

18 But as it stands, I've got three people -- three
19 administrative staff right now, collectively, they spend
20 about 40 percent of their time working solely on brothel
21 issues. Between issuance of cards, reviewing of
22 backgrounds, things like that.

23 So when you break that down into hours, your tax
24 dollars are paying for probably about 2,000 hours of work
25 each year solely for the brothel. So to say that I'm not

1 trying to work with them is a little bit silly.

2 Um, we could do a lot less. And yes. By all means,
3 take away my discretion. They can come in. They can be
4 fingerprinted and then go to work as soon as the
5 background check is done so there is no question. These
6 are temporary cards that we are talking about.

7 MR. D. GILMAN: I don't think I'm asking to take
8 away the sheriff's discretion.

9 Um, all I'm asking is is that with these ad hoc rule
10 changes when now we are supposed to add what you were
11 arrested for as a minor, that was -- that has never been
12 a process in -- as many years as I have worked there.

13 And so that is a new, uh, issue that was not
14 approved by the licensing board but approved by the
15 sheriff's office, which is fine. I'm willing to deal with
16 that. However, having it in writing and be prepared --
17 being prepared to be able to submit those things is -- is
18 what I need to know. If I don't know it needs to be done,
19 but I'm being denied because somebody didn't put
20 something on their minor record, uh, it's a little harsh
21 to take away their -- their work card when we didn't know
22 that that's what we had to do. And it was never put in
23 writing and sent to us.

24 MR. ANTINORO: Like I said, it says on the form, all
25 arrests and convictions. How that's being interpreted, if

1 there's a problem with that, Donnie, you know you can
2 pick up the phone and talk to me.

3 MR. D. GILMAN: And -- and you and I did have a
4 conversation at your desk, uh, in your office. And -- and
5 your --

6 MR. ANTINORO: [Inaudible] about minor convictions,
7 anything else. This is the first time hearing about minor
8 violations.

9 MR. D. GILMAN: As a minor?

10 MR. ANTINORO: Yes.

11 MR. D. GILMAN: Okay. And so when I called your
12 office and talked to Brandy and I asked her to get in
13 touch with you, she has gone to you to get an answer for
14 me and come back to me, which again, sir, is why I've
15 asked to have it sent to me in writing so I know it came
16 from your desk.

17 MR. ANTINORO: You know my phone number. That's all
18 I can say.

19 MR. D. GILMAN: And -- and I've called it.

20 MR. ANTINORO: [Inaudible].

21 MR. D. GILMAN: But I call your office. I don't -- I
22 don't want to blow up your cell phone with these types of
23 issues, which is why I've called the office.

24 MALE 1: Excuse me. Uh, the -- the forms have been
25 the same since --

1 MR. D. GILMAN: They've been the same since I took
2 office.

3 MALE 1: So where did the child -- the minor issue
4 come about?

5 MR. D. GILMAN: Uh, again. We've never had to do
6 that in the history of having the brothel. This is just
7 something that, again, was an ad hoc change, an
8 understanding of what the criminal records should be, but
9 with no notice to us.

10 MALE 1: What was the ad hoc change? I mean, it's
11 not on the form.

12 MS. STEPHENS: As far as, like --

13 MALE 1: Are you just talking --

14 MS. STEPHENS: As far as when you're a minor
15 [inaudible].

16 MR. D. GILMAN: So John Michael Mendoza [ph] has
17 said that that's been in effect for a year and a half. So
18 again, that was a change that was made a year and a half
19 ago and again was never brought to our attention.

20 MS. LANGER: Well, I'd like to chime in on this.

21 MR. MCBRIDE: Please.

22 MS. LANGER: Uh, first of all, a juvenile matter is
23 a quasi criminal matter, meaning that there really is not
24 a conviction that you would have as an adult. Further,
25 juvenile records are confidential. So putting any of that

1 information down, number one, is not a criminal matter;
2 it's a quasi criminal matter. There's a different
3 standard. There's a different approach. And reality is
4 that is confidential information.

5 So sheriff, as you were saying something that you
6 were not considering the -- a minor record in --

7 MR. ANTINORO: No. What I said is last time I
8 checked, I was the sheriff, not John Michael Mendoza.

9 And I can only think in -- in recent history of a
10 single incident where it showed a criminal record for a
11 juvenile. And that was someone who had been certified as
12 an adult at the time of that trial. That does not --
13 criminal history, as a general rule, don't even show
14 juvenile convictions.

15 MS. LANGER: That's correct. That's correct. I
16 almost said your honor, but you know, don't take that one
17 either.

18 MR. D. GILMAN: I do want to point also, uh, the
19 sheriff brought up the taxpayer's dollars that are put
20 towards, uh, these issues. We do pay a fee to have these,
21 uh, applications run.

22 Um, in the past if somebody made a mistake, we would
23 then go and reapply with another application and pay
24 another fee so that it was not costing the taxpayers nor
25 the sheriff's office the time or money -- well, time --

1 the money, uh, to run these records.

2 MR. MCBRIDE: So as I'm looking at this -- so what
3 type of assistance are you looking at? The application
4 says list all arrests and convictions.

5 MR. D. GILMAN: Uh, so I think what I would like,
6 uh, if possible, is a -- a definition, um, of that, um,
7 in -- in -- in, uh -- in our application and here's why.

8 When we look at this application and it's saying to
9 -- to, uh, write all of these things down, the very next
10 page is a questionnaire of, uh, a work, uh -- Storey
11 County brothel work permit questionnaire.

12 And all it basis is any of the, uh, arrest that you
13 had within the -- a misdemeanor possession use of
14 controlled substance in three years, uh, embezzlement in
15 three years, violent crimes or -- or deadly, uh -- or
16 dangerous weapon, uh, forever. Um, petty theft or
17 shoplifting in the past one year. Drug related felonies
18 within the past 10 years.

19 I believe a reasonable person filling this
20 questionnaire out based on a 10-year, uh, background
21 check would list what has happened in their background in
22 the last 10 years and not put things down when they were
23 a minor.

24 Or if someone was 50 years old working for me that
25 got a ticket when they were 18 years old for jaywalking,

1 uh, why would they have to put that on this application?

2 And so I would just like to try to slim down what
3 the meaning is of this, uh, for the brothel and for our
4 workers.

5 MR. ANTINORO: Well, I'll -- well, confirm this from
6 our working group, tho- -- the list that Donnie was
7 reading from just now, those are things that I'm going to
8 take as automatic disqualifiers if they are within those
9 times, those sections.

10 That's, uh -- that's a questionnaire. The
11 application itself says list all arrests and convictions,
12 which plain language, basically, during the time you've
13 been an adult.

14 MR. D. GILMAN: Does that mean as a minor as well?

15 MS. STEPHENS: No.

16 MR. MCGUFFEY: No. You wouldn't have a minor
17 applying for -- filling out the application.

18 MS. LANGER: But what's happened to them as a minor.

19 MS. STEPHENS: Right.

20 MR. ANTINORO: I would suggest that -- just what I
21 said. If -- if they were certified as an adult, that will
22 be on their criminal history. If they were not certified
23 as an adult, it was handled through the juvenile courts
24 or some kind of a deferment program, it's not going to
25 show up on a criminal history.

1 MS. LANGER: That's correct.

2 MR. ANTINORO: Yeah.

3 MR. D. GILMAN: Uh, we had had specific people
4 denied a work card for not listing things that they had
5 happen to them as a minor. So that contradicts, uh, what
6 the sheriff is saying today. I would have to look back at
7 --

8 MR. MCBRIDE: Are any of those -- are any of those
9 listed on your -- on your, uh -- on today's agenda?

10 MR. D. GILMAN: What's that?

11 MR. MCBRIDE: Are -- are any of those denials listed
12 today?

13 MR. D. GILMAN: Um --

14 MR. MCBRIDE: From -- from -- from -- from ju- --

15 MS. STEPHENS: Yes.

16 MR. MCBRIDE: -- from their --

17 MR. D. GILMAN: Yes.

18 MR. MCBRIDE: -- juvenile research?

19 MR. D. GILMAN: Yes.

20 MR. MCBRIDE: Okay. And what [inaudible].

21 MS. LANGER: Do you want her to stand up and talk?

22 MR. MCBRIDE: We're not there yet. We're -- we're
23 still -- we're still on number 20. So --

24 MR. MCGUFFEY: Might -- might I suggest that, um,
25 this is a -- a general request for a change in -- in the

1 way work cards are administered.

2 And one possibility is changing the ordinance to,
3 uh, be more specific about how the sheriff, um, uses his
4 discretion in, uh, allowing, uh, uh, somebody to reapply.
5 Um, that's something that would require an ordinance.

6 Um, so I'm not sure that the board can actually take
7 any action today, but you could give direction, um, uh,
8 that you might want, uh, staff to look at it, to see if
9 there's a possibility of -- of coming up with, um,
10 amendments that -- that satisfy both sides, um, and come
11 back with that.

12 Um, so I'm -- I'm not sure that there's anything in
13 front of the board you can take action on except, uh, to
14 give direction to staff.

15 MR. MCBRIDE: Okay. I've got a question for the
16 sheriff.

17 So in the event of an omission on the -- on the work
18 card application, if it's an -- if it's an -- if there's
19 an omission, is there a lifetime ban on getting a work
20 card?

21 MR. ANTINORO: Nothing in the ordinance that
22 addresses lifetime ban.

23 So I -- I have gotten to the point on several
24 circumstances where we have these continued failures to
25 disclose that I -- they are told they are getting it --

1 given it in writing saying to follow the ordinance and
2 appeal the decision to the board of county commissioners.
3 That's exactly what the ordinance says. That's what's
4 been exercised.

5 MR. MCBRIDE: Okay.

6 MALE 1: Uh, Sheriff, wa- -- was there a, uh -- a
7 ban? Have you -- have you issued ban?

8 MR. ANTINORO: No. That's been thrown out there
9 several times. There is no such thing as a ban.

10 If somebody comes in and they fail to disclose,
11 there's a problem with their application and it's
12 revoked, like I said, in several instances, many
13 instances, they -- when it's clearly an oversight,
14 they've been allowed to reapply.

15 And yes, pay the extra fee and go through the
16 process doing the full disclosure and then they get their
17 card.

18 In the instances that are continual failures of this
19 nature, I -- I refuse to accept a new application and I
20 tell them to follow the ordinance; to go back to you.
21 Take it before the board.

22 There's nothing that says I have to accept a second
23 application. I could tell them right from the get go;
24 take it to the board. You'd hear -- you'd be hearing a
25 lot more of these.

1 MR. MCBRIDE: So you would suggest that the staff
2 get with Mr. Morris and the sheriff and see if there's
3 something that needs to be tweaked. I don't know if you
4 need to draft a new ordinance or anything, but maybe we
5 can just work on what we've got.

6 Maybe ask you be specific on the application that,
7 you know, from the -- your date of birth -- your, uh --
8 your birthday at 18 or if you were convicted as a
9 juvenile as an adult. I mean, if it has to be specific,
10 then maybe it has to be specific.

11 MALE 1: Yeah. The -- the application basically is
12 not really governed by the ordinance other than the
13 questionnaire. Um, uh, you're calling this, if you'd
14 like, maybe we can work on just clarifying that
15 particular item. Uh --

16 MR. MCBRIDE: [Inaudible].

17 MALE 1: Okay. We'll -- we'll clarify that.

18 MR. MCGUFFEY: So are -- are the denials based on
19 the questionnaire and the application? Or application?

20 MR. ANTINORO: The questionnaire, if there's an
21 affirmative answer on the specific questions asked, that
22 will be a denial. And if they want to proceed, then they
23 would have to come to you to ask for additional
24 considerations.

25 On the application, a failure to disclose can lead

1 to a -- a denial or a revocation, which, again, they
2 would have to come back before this board if it was one
3 of these repetitive things.

4 MR. MCGUFFEY: Um, how often, uh, are they required
5 to renew?

6 MR. ANTINORO: Yearly.

7 MR. MCGUFFEY: Yearly? So they'd have to fill out
8 this -- this form all -- these forms all over;
9 application and the questionnaire?

10 MR. ANTINORO: Yes.

11 MR. MCBRIDE: Let me see if there's any public
12 comment on this. Mr. Thompson?

13 MR. THOMPSON: Mr. Chairman, board members, uh,
14 Madam District Attorney and Mr. Assistant District
15 Attorney.

16 Uh, my name is Chris Thompson; I'm the project
17 manager at TRIC. Uh, I've been asked by the controlling
18 interest at TRIC, uh, Mr. Roger Norman, who's here in the
19 audience today, to, uh -- to offer a comment, uh, on
20 this, uh -- on this matter.

21 Uh, it is frequently the case that if a business at
22 TRIC is -- is encountering procedures or penalties
23 applied on that business or its workers that -- that, uh
24 -- that we look into it. And, uh, this -- this appears to
25 be one of those cases.

1 Because of the -- the nature of the, uh, uh, issue
2 here, I just ask for a little possible leeway, uh, on the
3 clock, uh, if we get to that point, if the chair finds my
4 comments appropriate.

5 First off, uh, we're -- we're concerned about
6 whether the questionnaire -- the basis of the
7 questionnaire is called for in the county code.

8 If you look at the county code, and I'm looking at
9 section 15.16.220, sub B, sub 5. This is where it lists
10 things that must be in the questionnaire. It doesn't
11 provide authority or discretion, at least in its terms,
12 to add new things or other things on the questionnaire.

13 Subsection 5 says, "A complete criminal record of
14 the worker, including all convictions, except minor
15 traffic violations, such list to include a statement of
16 each offense, the place of its occurrence and the date of
17 its occurrence."

18 There's nothing in that section that talks about a,
19 uh, list of arrests. A complete criminal record -- I
20 think most laypeople would -- would look at that and say
21 if you're arrested, that doesn't make you a criminal.

22 Um, I -- I happened to look it up on the internet
23 just under general dictionaries and definitions of what
24 is a criminal record and isn't are all over the place,
25 but it's certainly not specified here.

1 It does mention including all convictions, but
2 nothing in here talks about an arrest record. So if
3 you're a layperson, an applicant reading this that would
4 be an issue, uh, in terms of understanding what's being
5 asked for.

6 The -- you heard earlier -- the comment was made
7 that if there was a, uh, feeling that there were too many
8 mistakes or mistakes on consecutive or -- or separate
9 applications that the applicant is told by the staff that
10 no further applications will be accepted from you.

11 They're not given a penalty period. They're not told
12 come back in two weeks; come back in 30 days. They're
13 told no more applications will be accepted, corrected or
14 not.

15 And it says in here, at least the way the -- the
16 code reads, I believe, is that a work card application
17 may be denied but I don't see anything in this code that
18 says that anyone has the authority to tell an applicant
19 you can never file another application ever to work in
20 this county. I don't see it, uh -- I don't see that in
21 the code.

22 There's another issue on the denials here. There --
23 there seems to be a thought here that if they fail to
24 list arrest or convictions that for any reason that
25 failure to list them is grounds for a denial of the work

1 card. And that's not true.

2 If you look at the grounds for denial that are all
3 very, uh, specific -- and now, I'm looking at sub F, sub
4 6. Sub F, sub 6, it says, "Willfully making any false
5 statement or omission in the registration from."
6 Willfully.

7 As far as I know, there's no authority in the
8 absence of a finding of a willful omission for someone to
9 make a mistake, for someone to leave it off without a
10 finding is now grounds by itself.

11 So there -- there's no -- there's no ban for life.
12 There's -- there's nothing in here saying that simply
13 missing out, uh -- filling out your application properly
14 is grounds -- is -- is a grounds for appeal.

15 And I believe that -- just haven't looked into it.
16 Do you have one of those letters? Sample letters. Let's
17 see what the letters say. Do the letters say willful
18 failure or willful omission of information?

19 This says you are -- this says, uh, for one, you are
20 hereby notified that your temporary brothel work permit
21 card has been revoked for failure to disclose criminal
22 conduct. It doesn't say willful failure. There's no
23 finding of willfulness. It's simply for failing to list
24 it.

25 I submit that this is not in accordance with the

1 code.

2 So you have a number of things here that are being
3 applied to this particular business that don't seem to
4 be, you know, specific in the code. I -- I suppose one
5 could say, well, we have some discretion here.

6 The objective is to keep unsavory characters from
7 coming into these businesses. We have to give a little
8 bit of leeway. But it seems like this is stretching each
9 one of those sections somewhat over the line.

10 Uh, I inquired of this business also about some
11 history here and I -- I think that the -- the numbers I -
12 - I've heard are somewhere between 150 and 200 current
13 work cards active, uh, with this business.

14 Over the years in 15 years, probably around 2,500 to
15 3,000 work cards have been applied for.

16 As far as I know, and I'm sure someone can correct
17 me if I'm wrong, out of those 2,500 to 3,000 work cards,
18 never one person has been found connected to organized
19 crime or drug cartels, which was kind of the -- the
20 original reason for work cards and gaming it in it -- in
21 this industry.

22 And I know there's different reasons in there, drug
23 convictions, [inaudible] convictions, fraud convictions.
24 Those are all, you know, valid reasons.

25 But as far as I know, the vast majority of the

1 cases, at least the court [inaudible] business told me,
2 have come up for failing to list arrests, failing to list
3 convictions on -- on other matters that were remote in
4 time.

5 And it just seems this is an area that -- that we
6 could certainly -- that we could certainly look at.

7 Uh, this business -- this particular business is --
8 is a -- is a good corporate citizen. In terms of taxpayer
9 money being spent to fund this process, each of the
10 applicants pay \$72 per application for the privilege of
11 having this reviewed.

12 This business pays the county between 150 and
13 200,000 a year in -- in license fees and taxes. They
14 certainly pay their way.

15 The business, as -- as I understand it, pays tens of
16 thousands of years in -- in -- in charitable -- in
17 charitable work for the needy here in this family. That's
18 from the revenue developed by applicants for these work
19 cards like these folks.

20 My -- my last comment, just, you know, as a -- and
21 perhaps I'm a little more sensitive on this given my --
22 my life history, but, you know, we all -- we all make
23 mistakes in life. We all make bad decisions. And those of
24 you that know my history, I'm certainly, uh, exhibit A in
25 many respects.

1 And the -- the drasticness of the, not only the card
2 being denied, but in -- in some cases, as I understand
3 cases today, these people that were revoked while on the
4 job have been worked several years, having a payroll
5 depending on this and revoked during the middle of a work
6 year, being sent home, and having a conversation with
7 your wife, with your husband, with your daughter about
8 just what happened to you at work.

9 What do we have to do with the paycheck? Just seems
10 a heavy price to pay. This seems -- you know, perhaps a
11 larger penalty that I think any of this might warrant.
12 And I'd ask for the -- the human, uh, element of this to
13 be, uh -- to be kept in mind.

14 But for -- you know, we always -- the [inaudible] in
15 our society, people that are feeding at the public
16 trough. They get public assistance, they take public
17 welfare, they're able bodied, they don't want a job, they
18 don't want to work.

19 And in cases like these, you have people -- not only
20 are they paying a day's wages, \$72 to -- before they
21 start work in order to get permission to work, but -- but
22 they -- they're coming in here to these hearings asking
23 for -- for -- for permission to work. And I think above,
24 perhaps, everything else, that speaks to -- to their
25 character.

1 So I just think, you know, this is -- I've always
2 been told Storey County is a compassionate county. It's a
3 warm county. It's a loving county.

4 One of the reasons that convinced me to come up here
5 for a new start in many ways and, uh, I just ask that
6 whatever your decision today, thank you. And, uh -- and,
7 uh, some humanity here would be good. Thank you.

8 MR. MCBRIDE: Thanks, Chris.

9 MALE 2: I guess, uh, you know, one of the things
10 I'd like you -- you know, you seem to be putting the
11 staff and council, uh, and the elected here that's
12 charged with enforcing those parts of the ordinance, you
13 know, I guess I -- I'd ask specifically from Don, perhaps
14 of Chris as well because you're eloquent at, you know,
15 speaking out, specifically what would you like us to do
16 so we can again take the appropriate path?

17 I agree completely with our council. And I'm sorry.
18 I have a little bit of a cold. So I know it's tough, but,
19 you know, I agree with our council that if we're going to
20 beef up the ordinance, you know, we're, uh -- if we're
21 going to actually be specific, we're probably going to
22 have to reopen the ordinance again.

23 Um, but what -- what is it that you would ask us
24 specifically to try to do?

25 MR. D. GILMAN: I -- I -- what I would ask, uh, if I

1 had one, uh, thing to ask you is that if somebody does
2 not, uh, put something on their work card application
3 that they have forgotten, just the allowance of us to be
4 able to reapply because it seems that the \$72 is enough
5 of a fine to accidentally forget to put something on your
6 record.

7 When you have to repay that and lose a day of work
8 or two or what you have to do to get that done, um, I
9 believe that's fine -- a fine that, uh, is reasonable
10 instead of having to stop for two weeks or even a month
11 if we can't get to, uh, a commission hearing to have
12 these things -- these things heard.

13 If it's something that was left off an application
14 that absolutely denies them from being able to have a
15 work card, then -- then I understand and, uh -- and they
16 should be, uh, denied that work card.

17 But for things that are not of the nature that would
18 deny them from a work card, I would ask that we are just
19 allowed to reapply.

20 MR. MCGUFFEY: Um, I've tried to stay out of this
21 one as much as I can. Um, I guess, again, I would ask --
22 and -- and maybe we just need to staff this and council
23 it and we'll work on it and bring it back.

24 But, you know, can there be a modicum of meeting
25 partway where we can take a second app or a third app,

1 even, but sooner or later, you know, it -- it would
2 strike me.

3 Uh, I've been told by some of you folks at the
4 brothel that you even maintain records and should be
5 double checking these applications to make sure, you
6 know, that they're compliant before they even get into
7 our system.

8 I mean, I -- I don't want to be argumentative on
9 either side. I don't have a dog in the hunt at all.

10 MR. D. GILMAN: Sure.

11 MR. MCGUFFEY: Um, but, you know, sooner or later,
12 \$72 or not, penalty or not, you know, of which, by the
13 way, most, if not all, I believe, is exactly what the
14 state charges us to -- to -- to run those every time.

15 Um, so it's not like the county's, you know, reaping
16 profits either. Um, but sooner or later, would you be
17 open to finding a certain level? You know, we'll give you
18 -- we'll give you a second strike, you know? Per- --
19 perhaps a third.

20 I mean, I -- I get the [inaudible] and I'm not going
21 to bring age into it, but, you know, I mean, I'm -- I'm
22 old and I can remember how many times I was arrested in
23 life.

24 And sooner or later, particularly if it's brought
25 out, you go have a criminal background done yourself, you

1 know, at, you know, wherever you can have those done.

2 I believe once upon a time, I think you guys were
3 even providing some information relative to that. I'm not
4 sure, sheriff, if that's true.

5 But, you know, if we -- if you guys would be open to
6 some level of yeah, at least a second pass, you know?

7 MR. D. GILMAN: Not only that, I'm also open to if
8 we had to, uh, pay a fine if somebody missed something on
9 their application, uh, I would be, uh -- I would not be
10 opposed to that, either.

11 MR. MCGUFFEY: Um, I --

12 MR. NORMAN: I -- I was just going to make an
13 observation that -- that my reading of the ordinance is
14 there's no ban in it. Um, if somebody has been refused,
15 say a second or third time, that's a denial.

16 And there's still, uh, the possibility of, uh,
17 appealing that to the board. And so, um, I -- I don't see
18 that there's a ban in -- in the ordinance. So, um, I can
19 -- I can see problems with, uh, multiple applications,
20 but there is the remedy that, um, you can appeal any
21 denial of the work card to the board.

22 So I -- I see ultimately that's -- that's something
23 that can be done. Um, and then again, um, if -- if the
24 board is interested in us trying to work out uh,
25 something on -- on, uh, what constitutes some -- uh, a

1 work card that could be reapplied for, uh, I think it's
2 possible.

3 But again, there's -- there's so many different
4 possibilities that, um, it's [inaudible] to -- to use
5 language to limit somebody's discretion in that case.

6 MR. ANTINORO: And in our last work session, that is
7 something that we struggled with and we talked about the
8 willful omission and -- and non-disclosures, uh, whatnot.
9 But, you know, everything then becomes a -- an accident
10 and oh, I forgot.

11 So, uh, there's been no lifetime bans, regardless of
12 how many times it's said. There's no such thing as a
13 lifetime ban. The card has been denied, the process is to
14 appeal it to the board. And that's the only thing that's
15 happened.

16 MALE 1: I -- I would think that the \$72 fee for
17 that is -- is, uh, incentive to get it right the first
18 time so you don't have to pay again.

19 MR. NORMAN: Uh, can I have about 30 seconds?

20 MR. MCBRIDE: Sure. Come on up to the podium.

21 MR. NORMAN: I don't need a podium.

22 MR. MCBRIDE: No. We do. We -- Roger, we do. We need
23 you to get to the podium because --

24 MR. NORMAN: Oh.

25 MR. MCBRIDE: -- we need you to identify yourself

1 for the record so the --

2 MR. NORMAN: Sure.

3 MR. MCBRIDE: -- the clerk can get everything on
4 tape.

5 MR. NORMAN: You can tell I've done this before.

6 Roger Norman. Um, I think we just ought to work, have a
7 little [inaudible], you know? I mean, we need to be --
8 have a friendlier sheriff's department to talk to these
9 people, you know? If -- if there's something wrong with
10 the application, I mean, you said it.

11 You just told us. Pick up the phone. Talk to us. Why
12 don't you guys pick up the phone when you have an
13 application if there's something wrong and say something
14 to them? Did you forget that you had a drunk driving
15 ticket eight years ago? It's not on here.

16 Can we put it on here? Can we make it work? Can we
17 figure out how to make it simpler and easier for
18 everybody, including the sheriff's department? What do
19 you think, sheriff?

20 MR. ANTINORO: I think I've already been more than
21 willing to work with them. Donnie knows all he's got to
22 do is call me and he said he doesn't want to blow up my
23 cell phone.

24 I put my cell phone number on my business cards so
25 anybody can call me on that number and I answer it 24

1 hours a day. He has availed himself to that in the past.

2 Do I need to pick up the phone every time something
3 goes wrong down there and say, hey, guess what? Then, I'd
4 pick up the phone if you were speeding and say, hey, Mr.
5 Norman, guess what?

6 I pick up the phone every time somebody does
7 something wrong. I'm supposed to be enforcing this stuff.
8 I'm supposed to be regulating this stuff. It becomes
9 incumbent upon them to make sure that their stuff is
10 correct at some point.

11 MR. NORMAN: If you see a problem, why don't you
12 call Donnie?

13 MR. ANTINORO: Donnie knows he has to call -- all --
14 all he has to do is call me. If he gets a letter and he
15 says, I don't understand it, all he's got to do is pick
16 up the phone and say, hey, Jerry, what's going on with
17 this one?

18 And on a couple of occasions that he has, we've come
19 to an understanding and been able to resolve those
20 issues. Have we not, Donnie?

21 MR. D. GILMAN: Some of them. Yes, sir.

22 MR. ANTINORO: Okay.

23 MR. NORMAN: So you're saying that when you have the
24 applications, you go to Donnie. You don't -- you don't
25 talk to the, uh, people that, uh, are putting in the

1 application. You just go to Donnie.

2 MR. ANTINORO: That's true. That streamlines things.

3 MR. NORMAN: Maybe we could -- maybe we should all
4 get together and talk and see if we can't streamline it
5 even better.

6 MR. ANTINORO: That's actually --

7 MR. NORMAN: Because you got people that want to go
8 to work.

9 MR. ANTINORO: That's something, actually I believe,
10 that has evolved out of contact with the brothel.

11 Uh, I know one time we were trying to work directly
12 with one of the denials and there was all kinds of hell
13 raising over that because family didn't know or family
14 didn't want to be involved or -- you know?

15 So, uh, that's -- I -- I believe there's been
16 conversations with [inaudible] and Donnie both about the
17 brothel being -- the management being the go between.

18 MR. NORMAN: Chair, are -- are we going to issue
19 these people some licenses today?

20 MR. MCBRIDE: We haven't got to those yet.

21 MR. NORMAN: No?

22 MR. MCBRIDE: That's next up.

23 MALE 2: I have a question for the sheriff. Is -- is
24 -- is there a way that Donnie could get a hold of the
25 criminal background check or report from you or --

1 MR. ANTINORO: No.

2 MALE 2: [Inaudible].

3 MR. ANTINORO: We cannot get it from --

4 MALE 2: Can -- can you get it in advance so they
5 can see what [inaudible] on it?

6 MR. ANTINORO: There -- there's a number of private
7 organizations that do those types of things, get that
8 information. Um, we talked about that during the -- the
9 review process. Again, uh, time is money.

10 I'm sure that's the case for everybody. Uh, if you
11 want to apply for Donnie and you want a work card, now,
12 he's going to have to go through that process, going to
13 take at least a few days to get that back. And then it's
14 going to come to me for -- for processing. So, uh, again,
15 it's a matter of time.

16 The temporary work card is intended to try and
17 minimize that time. It's allowing them to work. As soon
18 as we have a record of their existence and then we depend
19 on them to tell the truth and be honest with disclosing
20 things.

21 If they don't disclose on their application, then
22 it's like any other application that you don't disclose
23 on. You get in trouble for it. Most of the time, we work
24 with people on it. In extreme cases, then it just becomes
25 a denial that comes here to the board.

1 MALE 2: Would an, uh, individual like myself be
2 able to get my own criminal background?

3 MR. ANTINORO: Yeah. Not from me. But there are
4 entities out there that you can get it.

5 MALE 2: Find something online that does that or
6 something like that?

7 MR. ANTINORO: What's that?

8 MALE 2: Maybe find someone online that specializes
9 in that or something? Is that --

10 MR. ANTINORO: Yeah. There are companies that do
11 that. And you can get it, uh, by contacting the state
12 directly. You can go through --

13 MALE 2: Okay.

14 MR. ANTINORO: -- the state and get them.

15 MALE 2: Okay.

16 MR. ANTINORO: Your own report.

17 MALE 2: I think that's kind of important just so
18 that they can go maybe find out [inaudible], see what's
19 on their record. I don't know. Might make it easier to --
20 you know, for trying to remember everything.

21 MR. ANTINORO: I believe somebody works up there and
22 I'm -- I'm getting ready to turn 51 and I remember every
23 arrest I've ever had.

24 MALE 2: Do you -- do you --

25 MR. ANTINORO: I don't have every traffic citation

1 I've ever had.

2 MALE 2: But do you remember the date, the exact
3 date? Does that -- I don't.

4 MR. ANTINORO: I can't say the exact date, whether
5 it was a Tuesday afternoon, but I can get it in the
6 ballpark.

7 MALE 2: Yeah.

8 MR. ANTINORO: And we're not going to deny something
9 just on the basis of --

10 MALE 2: Just the day.

11 MR. ANTINORO: -- they had the day a couple of days
12 wrong or even the month may be wrong.

13 MALE 2: Okay. Okay.

14 MR. NORMAN: That's it for me.

15 MR. MCBRIDE: Thank you.

16 MR. NORMAN: All right.

17 MR. MCGUFFEY: Thank you.

18 MR. MCBRIDE: Well, I think, uh, if you guys want to
19 look at this, uh, I don't -- I don't -- I don't think we
20 need to beat this horse to death any more than we already
21 have. Uh --

22 MS. CULLEN: [Inaudible].

23 MR. MCBRIDE: Sure. Come on up. Come on up.

24 MS. CULLEN: [Inaudible].

25 MR. MCBRIDE: Come on up. Sure.

1 MS. CULLEN: Judy Cullen; business owner; Storey

2 County resident. Business owner, Storey County.

3 I sat here and watched the time of all the people
4 multiply the time on this. What seemed to me that human
5 resources, when you hire someone, should do a check
6 before you just hire anybody off the street?

7 And I'm just looking at this in black and white,
8 that why wouldn't the human resources in any company
9 check out the applicants. And I, too -- I'm old. I've had
10 one speeding ticket in my whole life at 18 and that's it.

11 I think that the word "willful" or not, when I
12 signed my 1040 for the IRS, I signed that, oh I forgot
13 that I made twice as much money. Oh. But in cash. Okay?
14 That's how I see it.

15 So I think if human resources does their homework,
16 instruct the potential employees how to fill that out, we
17 wouldn't spend hours on this because I heard about this
18 in another commissioner's meeting, going through the
19 whole board and blah, blah, blah.

20 My recommendation to whomever, to whichever company,
21 instruct your employees how to fill out the forms.

22 MR. MCBRIDE: Thank you.

23 MS. CULLEN: Was that fast?

24 MR. MCBRIDE: Any other public comment? No? I don't
25 -- I don't know. I don't know what action there is to

1 take on this other than to direct staff to, uh,
2 [inaudible] the council and the sheriff and see if
3 there's a way of tweaking the, uh -- the, uh --
4 MR. MCGUFFEY: Code?
5 MR. MCBRIDE: The application or something like
6 that. I mean, uh --
7 MR. MCGUFFEY: That would be mean. And as long as
8 we're inclusive of including the brothel, I'm --
9 MS. LANGER: Yeah.
10 MR. MCGUFFEY: -- certainly willing to accept that
11 responsibility.
12 Do we need to make a motion?
13 MR. MCBRIDE: Yeah.
14 MR. MCGUFFEY: To --
15 MR. MCBRIDE: Direct staff.
16 MR. MCGUFFEY: To direct staff to look at the
17 county, uh, brothel code related to, uh --
18 MR. MCBRIDE: Worker's applications.
19 MR. MCGUFFEY: Work card applications?
20 MR. MCBRIDE: Yeah.
21 MALE 2: Commissioner, if I might, could I ask you
22 to amend slightly to not only look at the code, but to
23 look at the process? Because we may be able to tweak the
24 process without opening yet again the code, which
25 requires publications, two meetings.

1 Uh, we get into the slippery slopes that we were at
2 before. So if we can -- if we can amend that to include
3 not only the ordinance, but also the process, perhaps we
4 could find a solution.

5 MR. MCGUFFEY: Okay. So I make a motion to adjust or
6 amend the brothel related work card application. Do I
7 have a second?

8 MR. MCBRIDE: I'll -- yeah. Inclusive of the
9 brothel. Yes. I'll second your motion. It's been moved
10 and second to direct staff to follow up on this. All
11 those in favor of this, signify by saying aye.

12 MR. MCGUFFEY: Aye.

13 MR. MCBRIDE: Aye. Motion carries.

14 All right. Now, we're going to move on now to, uh,
15 item number 17. This is a discussion.

16 MR. MCGUFFEY: Hold on. And -- and I -- this will
17 be, again, up to both, uh, Donnie, who's requested all
18 three items, I believe, and you guys. But I believe
19 there's been a request to hear 17 and 18 and 19 as a
20 combined passage; is that correct?

21 MR. D. GILMAN: Yes, sir.

22 MR. MCBRIDE: Any objection, sheriff?

23 MR. ANTINORO: I don't care.

24 MR. MCBRIDE: Okay. All right then. We will hear
25 item 17, 18, and 19. This is appeal for work card

1 submitted by Carmen G. Rivera, Marisha Nolan [ph],
2 Stephan Gem [ph] -- Stephen Gem -- Stephan Gem. Don
3 Gilman.

4 MR. D. GILMAN: Uh, again, Don Gilman, uh, license
5 manager of Mustang Ranch. Uh, I'm going to have, uh, Tara
6 step up here and discuss, uh, the issue that we're having
7 with this particular work card.

8 MS. TARA: So Carmen Rivera started with us in 2014,
9 had a work card. It was revoked for failure to disclose
10 criminal acts. She reapplied. Since then, has been a
11 great independent contractor with the Mustang with no
12 problems.

13 She's responsible, a hard worker. Um, she has put
14 herself through school, paid off all her schooling. She
15 just graduated in marketing. So then she had to reapply
16 this year in 2015 and had it revoked again for failure to
17 disclose all her convictions.

18 She had a very rocky past and she'll be honest with
19 you about that. She's nine months sober now. Um, her
20 actual convictions are all the way back to 2007. Nothing
21 that would hold anything over her heard from getting a
22 work card with Storey County.

23 So there's only four actual convictions, and they're
24 DUIs; one's reckless driving. And so we ask for her to
25 get her work card today.

1 MR. MCBRIDE: So, uh, the, uh, was incomplete; is
2 that -- or -- or was her arrest between the last
3 application and the most current application?

4 MS. TARA: I don't believe so. I think it was just
5 for not disclosing all criminal conduct is what the
6 letter said.

7 MR. MCBRIDE: Okay. So when -- when she received her
8 -- her work permit last year, uh, the background check
9 didn't show?

10 MS. TARA: It did. And then the -- it was a
11 different list. And I have both of those lists from 2014.
12 And they're just two completely different lists. And so
13 like I said, back then it was more less the DUIs and
14 drinking and DUIs. So she had a foggy memory of
15 everything and she will admit that. To whereas now, she
16 knows everything and has records of everything.

17 MR. MCBRIDE: But again, nothing on her record at
18 this point, uh, would deny her from a work card --

19 MS. TARA: Nothing.

20 MR. MCBRIDE: -- uh, except that she just failed to
21 put these on her application.

22 MS. TARA: Put them all on there.

23 MR. MCBRIDE: Okay. Sheriff?

24 MR. ANTINORO: Uh, just to recap, uh, and Tara's
25 pretty well correct. In 2014, uh, Ms. Rivera applied,

1 listing one arrest on her application. Card -- temporary
2 card was revoked. We sent a letter saying what the five
3 arrests were.

4 She reapplied listing all five arrests, was granted
5 a card. Then, came in for a renew- -- renewal, uh, this
6 year, only listing three arrests when she just did it a
7 year ago. She had a list from us a year ago.

8 Uh, we submit everything for a background check.
9 Now, there's 11 arrests, only three of which were listed.
10 I don't have the actual criminal history with me. So I
11 don't know what resulted in, uh, convictions and what did
12 not.

13 However, yes, it was incomplete application, failure
14 to disclose, and it is a continuing process.

15 So, um, it's one of those things where the card was
16 denied and she comes to you for -- if she's clean and
17 sober now, great. All I ask is that the applications be
18 submitted completely.

19 And in this instance where she had incomplete list
20 of what her offenses were a year ago and I believe that
21 this is one case where Donnie and I spoke of where they
22 had the -- the -- the brothel should've also had a list
23 from a year ago.

24 So, um, you know, it -- it -- it gets old having to
25 redo these over and over and over and over. So --

1 MALE 2: Can you explain you didn't just basically
2 copy the one you had?

3 MS. RIVERA: Um, actually, I thought that I did. Um,
4 from the list that I was given from 2014, um, I -- I
5 thought that I did go by that because I wrote it down.
6 Um, but the ones for this year brought up other stuff.
7 Old- -- older stuff, like one when I was, like, 16
8 and it's just stuff that I completely forgot about. My
9 memory was really foggy. Um, it's all alcohol related
10 stuff. And, um, it was just a different list.

11 So it just went further and further back.

12 MALE 2: Donnie, do -- do you, uh -- do you -- do
13 you -- would you have supplied her with a copy of -- that
14 you had on file?

15 MR. D. GILMAN: So we do, uh, give them their file
16 and the arrests. Uh, and the one in '14, again, uh, had
17 certain arrests on there.

18 The one she got in 2015 had more arrests in there,
19 again, dating all the way back to when she was a minor,
20 which is where, uh, I was asking for your help on the
21 minor issues. Uh, and so those really shouldn't even have
22 had to be disclosed on this particular application.

23 MALE 2: Right. Okay.

24 MR. MCBRIDE: So any idea why her juvenile record
25 would come up on -- on this?

1 MR. ANTINORO: Like I said, I don't have her
2 specific history with me. So I can't speak knowledgably
3 of it. Um, all I can tell you is that we went from one --
4 one arrest being listed to there actually being five. And
5 from three being listed to there actually being 11.

6 MALE 2: And so were the other four, were they all
7 prior dates to the seven that were listed originally?

8 MR. ANTINORO: No. I'm sure that the original
9 charges would've all been listed on there also.

10 MR. D. GILMAN: We have a list we can share if you'd
11 like.

12 MS. RIVERA: They were all previously -- it's back -
13 - it's all the way back from '91.

14 MALE 2: How many times -- she's applied three times
15 now?

16 MR. ANTINORO: Let's see.

17 MS. TARA: Two.

18 MR. ANTINORO: This would --

19 MS. TARA: This is her second.

20 MR. ANTINORO: Yeah. It would actually be three
21 because there was the application, then the work card was
22 revoked, reapplied, issued, then reapplied, and again
23 revoked.

24 MALE 2: Has she had to pay the \$70 -- \$72 each
25 time?

1 MR. ANTINORO: As far as I know.

2 MS. TARA: Yes. She has.

3 MALE 2: You paid 210 -- \$15 or something like that?

4 MR. MCBRIDE: Okay. Very interesting. Does anybody
5 have any public comment on this before we go any further?

6 Okay. And I'm -- so sheriff, uh, with that -- uh, so
7 I -- I'll ask Donnie first. Donnie, can you attest that
8 this individual is clean and sober now?

9 MR. D. GILMAN: Yes, sir.

10 MR. MCBRIDE: And can perform the duties there in a
11 --

12 MR. D. GILMAN: Absolutely.

13 MR. MCBRIDE: -- in a drug free environment?

14 MR. D. GILMAN: Yes, sir.

15 MR. MCBRIDE: I'd ask the sheriff now. Since we've
16 gone through this process, uh, uh, you know, uh, we've
17 got the message.

18 You know, we've all got the message in this room
19 that you -- you want these people to have their
20 applications [inaudible] correctly the first time around
21 or even the second time around. Now, we're here.

22 So, uh, are you -- are you satisfied with the
23 explanations that have been brought forward?

24 MR. ANTINORO: Well, it's an explanation.

25 MR. MCBRIDE: Okay. Well, then would you -- would

1 you recommend a -- an approval or denial of, uh -- of the
2 applicant's, uh, appeal for the work card revocation?

3 MR. ANTINORO: Well, in this instance, I don't know
4 if I'm in a position to say approve or deny, but I will
5 entertain whatever the board's decision is.

6 MR. MCBRIDE: Okay. Well --

7 MR. MCGUFFEY: Does this applicant still [inaudible]
8 apply with the correct [inaudible]?

9 MALE 2: I think, uh, the sheriff is part of the
10 board. So he gets to vote.

11 MR. MCBRIDE: But the question is is there -- is
12 there a -- what's the requirement of the -- vote of the
13 quorum of the board? Or a quorum of the voting members of
14 the board?

15 MALE 2: Uh, it's, uh, the board that's present.

16 MR. MCBRIDE: Okay. So it's going to take a three
17 vote.

18 MALE 2: No. Two vote.

19 MR. MCBRIDE: Okay. Two out of a four person vote?

20 MALE 2: Uh, no. It's -- there are three people
21 here.

22 MR. MCBRIDE: Okay. Uh, I guess --

23 MALE 2: So it's the majority of the people here.

24 MR. MCBRIDE: For -- for clarification, I -- I am
25 not comfortable with making a motion one way or another.

1 So if there is a --

2 MALE 2: I wasn't --

3 MR. MCBRIDE: -- motion being made.

4 MALE 2: -- [inaudible] make a motion, chairman. If
5 that's your recommendation whether we should approve or
6 deny the applicant.

7 MR. MCBRIDE: Right. But being a voting member of
8 the board, I don't know if I -- making a recommendation
9 would be appropriate or not.

10 MS. LANGER: Ma- -- uh, I'd like to weigh in here
11 again on the legal issue. So it appears to me that she
12 had five arrests and then the next time the criminal
13 history comes out, there's 11 arrests.

14 If I'm hearing everybody correctly, you're saying
15 that the -- the six new arrests were actually from her
16 juvenile history.

17 MS. RIVERA: From '91 to back up on this application
18 one.

19 MS. LANGER: Juvenile history.

20 MS. RIVERA: That wasn't on 2014.

21 MR. D. GILMAN: Not all of them were juvenile
22 history.

23 MS. RIVERA: No.

24 MR. D. GILMAN: But they did come up in the second
25 round, uh, of running her background, which they did not

1 show up the first time they ran the background. But they
2 were all older than the first five we received.

3 MS. LANGER: How many of them were juvenile?

4 MS. TARA: Uh, just one, right? Ninety-one, she was
5 a juvenile. And then there's a '98 and a '99.

6 MS. LANGER: I don't know how old she is. So does
7 that make her --

8 MS. TARA: Ninety-one, she would've been a juvenile.

9 MS. LANGER: All right. So out of the six new ones
10 that showed on the criminal history, only one is a
11 juvenile record and I would not have the board consider
12 that. The other five, they'll go with, uh -- go with how
13 you feel.

14 But based on that evidence, I would say based, uh,
15 on the fact that juvenile matter is, uh, quasi criminal
16 that I would not consider that. But the five other ones,
17 which can be considered.

18 MR. MCBRIDE: Uh, what -- what I might like to
19 consider is that she still has yet to supply a complete
20 application; is that correct?

21 MS. TARA: The last one we tried to submit was
22 turned away.

23 MR. ANTINORO: Because she was already referred to
24 the board for review in accordance with the ordinance.

25 MALE 2: Okay. But she hasn't -- still, to this

1 date, she hasn't supplied you with a completed
2 application or -- or questionnaire?
3 MR. ANTINORO: Correct. A complete that's completely
4 disclosed.
5 MR. D. GILMAN: But that's because --
6 MALE 2: And if Donnie's saying she's [inaudible] --
7 MR. D. GILMAN: -- it was [inaudible].
8 MR. MCBRIDE: Well, [inaudible] denial.
9 MR. D. GILMAN: Yes, sir.
10 MS. RIVERA: Yes.
11 MR. MCGUFFEY: And what would the timeframe be,
12 Donnie?
13 MR. D. GILMAN: What's that?
14 MR. MCGUFFEY: Well, how long has she been clean?
15 MS. TARA: Nine months.
16 MR. D. GILMAN: Nine months.
17 MR. MCGUFFEY: Okay.
18 I might like to recommend that she reapply with a
19 complete application and questionnaire.
20 Uh, I think we could waive the \$72, but -- but this
21 would be the end of the line. It's got to be a complete.
22 And it would still be to the sheriff's discretion.
23 MR. MCBRIDE: And if I may, the -- the -- the money
24 that is paid, as pointed out by County Manager Whitten,
25 that covers the cost that we are charged from the state.

1 That's state and FBI charges. Those are not monies that
2 Storey County gains.

3 MR. MCGUFFEY: Would you be opposed to waiving the
4 fee or -- she's paid three times now?

5 MR. MCBRIDE: Well, they have to pay every year
6 because they have to -- they have to go through this
7 every year for background. So --

8 MR. MCGUFFEY: But she's already paid three times
9 already.

10 MR. MCBRIDE: I know, but it's -- it's not at the
11 county's, you know --

12 MR. MCGUFFEY: Okay. Yeah.

13 MR. MCBRIDE: The state's the one that's collecting
14 the fee.

15 MR. MCGUFFEY: Then it's -- I have to take that back
16 then.

17 MS. TARA: Yeah.

18 MR. MCGUFFEY: It's coming out of our pocket.

19 MS. TARA: Yeah.

20 MR. MCGUFFEY: Okay?

21 MS. TARA: She'll pay it.

22 MR. MCGUFFEY: I -- but I don't have a problem with,
23 uh, giving you one last shot at getting it right. You got
24 all the criminal background stuff information with you
25 now.

1 MR. MCBRIDE: Okay.

2 MR. MCGUFFEY: So -- but -- but again, it's still
3 the sheriff's discretion. That's his job. I'm not going
4 to override his -- his decision. All right?

5 MR. MCBRIDE: Okay. So that's your motion?

6 MR. MCGUFFEY: Yes.

7 MR. MCBRIDE: To approve work card for Carmen
8 Rivera. I get a second on this? I'll second your motion.
9 It's been moved and second to approve work card submitted
10 by Carmen C. -- G. Rivera. All those in favor, signify by
11 saying aye.

12 MR. ANTINORO: Can I have a moment before you vote?

13 MR. MCBRIDE: Sure.

14 MR. ANTINORO: Just for clarification sake. Is this
15 approval of a work card? Or is this a -- authorizing her
16 to reapply because there's difference?

17 MR. MCBRIDE: It's a reapply because we can't
18 authorize a work card because it hasn't gone through the
19 process.

20 She still has to go through the process, fill it
21 out, submit everything to your office, and everything
22 better be T's crossed, I's dotted.

23 MR. ANTINORO: Okay. I just wanted clarification.

24 MR. MCBRIDE: It's clarified. Yeah. Okay.

25 I have a motion .Do I have a second?

1 I'll second the motion. We move and second to
2 approve her reapplying. All those in favor signify by
3 saying aye.
4 MR. MCGUFFEY: Aye.
5 MR. ANTINORO: Aye.
6 MR. MCBRIDE: Aye.
7 Are you an aye?
8 MR. ANTINORO: Yes.
9 MR. MCBRIDE: Unanimous. Okay. You're --
10 MS. TARA: Say thank you.
11 MR. MCBRIDE: -- you're approved Carmen.
12 MS. RIVERA: Okay. I just want to say thank you.
13 Thank you for your time.
14 MR. MCBRIDE: I'm going to suggest that you keep a
15 copy of your most latest and put it in your purse so you
16 don't, you know --
17 MS. RIVERA: Definitely.
18 MR. MCBRIDE: -- you file -- fill out another one
19 this year.
20 MS. RIVERA: I will, for sure.
21 MR. MCBRIDE: Okay? Save you a trip to the
22 courthouse there.
23 Okay. Next up -- is it Marisha Nolan?
24 MS. NOLAN: Yes.
25 MR. MCBRIDE: Okay. All right.

1 MS. TARA: So Marisha Nolan was hired back in 2011,
2 has been with us since then in and out. Um, this job
3 allows her to take care of her three kids. She's got a 14
4 year old, 8 year old, 23 month year old.

5 Uh, 2015, she went to reapply. She just came back
6 and, uh, was revoked for failure to disclose criminal
7 acts, once again, and was told she was banned for life
8 now from getting a work card.

9 She has no arrests on her record that would deny her
10 to get a work card through the Storey County. And the
11 arrest that actually did show up on the sheriff's paper
12 or -- was when she was 17 years old. So we're asking for
13 her work card back as well.

14 MR. MCBRIDE: Okay. So because of an omission from a
15 juvenile record?

16 MS. TARA: Yes. And I've got copies of that as well
17 if you'd like to see it.

18 MR. MCBRIDE: Was it criminal activity that was
19 deemed as an adult?

20 MS. TARA: Were you deemed as an adult?

21 MS. NOLAN: I don't think so.

22 MR. MCBRIDE: Okay.

23 MS. TARA: She had one that was a conviction. That
24 was back in 2000, which was a liquor law violation, but
25 she was 17.

1 MS. NOLAN: Mm-hmm.

2 MR. MCBRIDE: Okay.

3 MS. TARA: And that's what came up. Everything else
4 was disclosed on her record that was recent.

5 MR. MCBRIDE: Okay.

6 MR. MCGUFFEY: Were you tried as an adult?

7 MS. NOLAN: I don't remember. That was --

8 MS. LANGER: Legally, to be, uh, certified from an -
9 - a juvenile to a -- an adult, number one, you generally
10 have a very extensive history. Number two, it's going to
11 be a very, very serious crime, uh, to get you into the
12 adult system as a juvenile.

13 If -- if she is saying that as a minor possession,
14 that would not be a case that would be, uh, where you
15 would be certified as an adult. There would have to be
16 much more [inaudible] minors.

17 MR. MCBRIDE: Okay.

18 MS. LANGER: That's the name of the case.

19 MR. ANTINORO: Well -- again, there's more to the
20 story than -- than what you're being told. The initial
21 application was made in 2011. It was denied because there
22 had been a shoplifting conviction within a year of that,
23 uh, application.

24 Um, she was -- she was issued, uh, work card later
25 that year, uh, later that same year after the one year

1 mark had passed. 2013, there was, uh, an application
2 submitted that didn't, uh, list everything in the
3 history. 2014, uh, last year -- we should've been here
4 last year because it should've never been approved last
5 year only -- because there was only a single arrest
6 listed when there were multiples.

7 And unfortunately, the way the system works,
8 employees change over and the -- the ladies that I have
9 running the office now are much more diligent in doing
10 their jobs.

11 So yes, this is multiple years of again failing to
12 disclose, uh, everything that's supposed to be disclosed.
13 And it -- it is not involving juvenile records.

14 MR. MCGUFFEY: You -- you said that there was a -- a
15 convic- -- uh, conviction -- uh, conviction, uh, within a
16 year prior to the 2011?

17 MR. ANTINORO: That was back in 213 -- or 2013 -- or
18 yeah. 2011. Excuse me.

19 MR. MCGUFFEY: Okay.

20 MR. ANTINORO: That was why the initial one is --
21 was denied was because of the shoplifting.

22 MR. MCGUFFEY: And -- and what is the timeframe for
23 something like that that denied -- is it two years or --
24 before an application or their last -- their last
25 conviction, what would -- what would you entertain or

1 consider there?

2 MR. ANTINORO: Um --

3 MR. MCGUFFEY: I don't -- I don't normally --

4 MR. ANTINORO: I don't know if I have a

5 questionnaire with me here that, uh -- you have the

6 questionnaire --

7 MR. D. GILMAN: Yeah.

8 MR. ANTINORO: -- with you, Donnie?

9 MR. D. GILMAN: [Inaudible].

10 MS. TARA: I believe it's one year for shoplifting.

11 MR. ANTINORO: Yeah. So it's one year -- it was --

12 it would've been, uh, four months after the de- -- the

13 initial denial. In 2011, she did reapply. It was past the

14 one year mark. So she was issued a card in 2011.

15 MR. MCGUFFEY: Oh. Okay.

16 MR. ANTINORO: But then, like I say, as -- each

17 subsequent application, again, failure to disclose --

18 MR. MCGUFFEY: Okay.

19 MR. ANTINORO: -- previous criminal conduct.

20 MR. MCBRIDE: Okay. So we should've been here last

21 year because there was a -- there was a -- an omission on

22 last year's renewal? And so is that -- is -- is this a

23 duplicate for this year? Then it'd be the same omission

24 as there was last year?

25 MR. ANTINORO: Well, multiple omi- -- admissions.

1 There was a singular arrest listed on the application
2 this year, when in fact, there's multiple arrests and
3 convictions.

4 MALE 2: May I ask a question?

5 MR. MCBRIDE: Go ahead.

6 MS. NOLAN: That was dismissed and that was
7 disclosed.

8 MALE 2: [Inaudible]. Were any of them disqualified
9 other than through omission?

10 MR. ANTINORO: Uh, I think we're passed the time
11 periods on any of the disqualifiers. I'm just double
12 checking that. Yes. We're passed the -- the time limit on
13 those.

14 MS. TARA: So the letter we got on August 11, 2015
15 from the sheriff only states her arrest in 2003 that were
16 in there. And then one from January 2013, which was
17 disclosed and dismissed.

18 And it --

19 MS. NOLAN: It was all at one time. Yeah. It's like
20 one --

21 MS. TARA: The ones from 2000 were all one arrest,
22 but three charges. And that's when she was younger. This
23 is the letter we got from the sheriff. So we could do a
24 correct one.

25 MALE 2: But again, this is a -- she was a minor,

1 correct, on that particular --
2 MS. TARA: Yeah. In 2000. Yes.
3 MR. MCBRIDE: And where was Ms. Nolan's last
4 involvement with law enforcement -- criminal activity?
5 MS. NOLAN: Uh, 2013. And that was disclosed and
6 dismissed.
7 MR. MCBRIDE: Okay.
8 MR. ANTINORO: Yeah. 2013, that was the last one.
9 MR. MCGUFFEY: [Inaudible].
10 MR. ANTINORO: No. It was, uh, a domestic violence,
11 disorderly conduct.
12 MR. MCBRIDE: You have a question on this, Mr.
13 McGuffey?
14 MR. MCGUFFEY: Ms. Nolan , how long have you been in
15 Nevada?
16 MS. NOLAN: Um, I still travel back to Wisconsin.
17 That's where I'm from.
18 MR. MCGUFFEY: Where?
19 MS. NOLAN: I still live in Wisconsin.
20 MS. TARA: She travels --
21 MS. NOLAN: I travel.
22 MS. TARA: -- to work.
23 MS. NOLAN: Yeah.
24 MR. MCBRIDE: Are you just down here to work?
25 MS. NOLAN: Yeah. Yes. That's correct.

1 MR. MCBRIDE: Let's see if our legal counsel wants
2 to weigh in on this.

3 MS. LANGER: I don't know if it's a legal opinion as
4 much as it is -- as it is a personal opinion that doesn't
5 really have a place here. Um, so I would -- I think you
6 have all the information you need to make a decision on -
7 -

8 MR. MCBRIDE: Yeah.

9 MS. LANGER: -- what you think about it. So, uh, I
10 think my opinion in this case, after talking to Mr.
11 Morris, is more personal than legal. So I will not weigh
12 in.

13 MR. MCBRIDE: I'm going to follow Commissioner
14 McGuffey's, uh, recommendation on -- on the last
15 applicant with this is that -- is to go forward and, uh -
16 - and -- and give you an opportunity to, uh -- to reapply
17 for, uh, your, uh, work permit. Once again, this is the
18 last bite of the apple.

19 Uh, and, uh -- and I think we're going to have to
20 get things more in place down at the brothel for having
21 records kept. Your employees have to know how many times
22 they've been arrested.

23 MR. ANTINORO: Yeah.

24 MR. MCBRIDE: You know? When, where, and what for?

25 MS. TARA: But her one record was disclosed. The

1 other three charges are when she was a minor.

2 MS. NOLAN: Can you just --

3 MR. D. GILMAN: The only denial she had was because
4 of the minor issue.

5 MS. TARA: Correct. This year. Right now.

6 MS. NOLAN: [Inaudible] from 2010.

7 MR. MCBRIDE: This says that the normal application
8 for a normal work card in that where brothels, gaming,
9 and liquor are all privy to licenses. And so --

10 MS. TARA: Absolutely.

11 MR. MCBRIDE: -- the -- the rules are -- are greater
12 and -- and more in depth. Uh, I'll go back to gaming one
13 more time. You apply for your gaming license, you put
14 down everything that's happened to you since the day you
15 were born. And if you don't admit it, you're going to be
16 denied. So -- any public comment on this applicant?

17 Hearing none, I'll make the motion, uh, that, uh, we
18 approve, uh, Ms. Nolan to go ahead and to reapply with
19 the sheriff for a work card.

20 MR. MCGUFFEY: I'll second that motion.

21 MR. MCBRIDE: Motion and a second. You're approved,
22 Ms. Nolan. Uh, any other comment?

23 All those in favor, signify by saying aye.

24 MR. ANTINORO: Aye.

25 MR. MCBRIDE: Aye.

1 MR. MCGUFFEY: Aye.

2 MR. MCBRIDE: Unanimous. Aye.

3 MS. NOLAN: If I may, can I just say thank you very
4 much for your time as well?

5 MR. MCBRIDE: You're welcome. Take your application,
6 make a photo copy, put it in your purse.

7 All right. Item number, uh, 19 now, appeal for the
8 work card for Stephan Gem submitted by Don Gilman. Okay.

9 MS. TARA: All right. This is Stephan. He was hired
10 back in 2012. Um, his work card was pulled as well for
11 not disclosing all his criminal convictions. Now, his
12 charges were down at the [inaudible] tribal where he
13 lives.

14 MR. GEM: Yes.

15 MS. TARA: So now, he was under the impression that
16 he did not have to disclose those because of all of these
17 were on tribal lands.

18 MR. GEM: True.

19 MR. MCBRIDE: Sovereign nation?

20 MS. TARA: So Steve has been a -- a really good
21 employee with us. He's -- he's never late for -- for
22 work.

23 MR. MCBRIDE: This is his first denial; right?

24 MR. D. GILMAN: Yes.

25 MS. TARA: And this is his first denial. He's an

1 awesome employee and an amazing chef. So we're hoping to
2 get his work card back as well.

3 MR. MCBRIDE: So you had an initial work card and
4 then this would be the third renewal? Are these renewed
5 annually as well?

6 MS. TARA: Yes.

7 MR. D. GILMAN: Yes.

8 MS. TARA: Every year.

9 MR. MCBRIDE: Okay.

10 MR. D. GILMAN: And these charges, uh, never showed
11 up on his record for the past three years. These are all
12 15 years or older, uh, charges.

13 MS. TARA: Yep.

14 MR. D. GILMAN: Uh, but this year, they have popped
15 up, again, which is why he did not realize he had to, uh
16 --

17 MS. TARA: Disclose them on the application.

18 MR. D. GILMAN: -- disclose them on the application.

19 MR. MCBRIDE: Did -- did the state just start
20 something new with sharing information with BIA or --

21 MR. ANTINORO: No. I don't think so. Uh, I think
22 probably more has to do with my past employees. Uh, but
23 yeah. This is another case.

24 Uh, and Mr. Gem is in a little bit different
25 classification since he's working in the kitchen and they

1 are quite dated. But this is one of those things where
2 based on what he listed on his application, uh, versus
3 what there actually is, the card should've never been in
4 approved in 2012, 2013, 2014, 2015.

5 Uh, and actually to get the disposition because the
6 -- the arrests were reported. So they have been on his
7 criminal history all along.

8 Problem being is that -- and this -- this does
9 happen in dealing with tribal courts and even -- even
10 other states is that not everybody is good at reporting
11 what the outcome is, what the status of those cases are,
12 uh, convictions or otherwise.

13 Um, I believe what's happened is in the past. It
14 being that it came from the tribal court, it was an
15 unknown disposition. So my staff just passed it through
16 not wanting to bother with it.

17 Well, my change in staff, the -- the diligent
18 individuals that I have working there now, they don't cut
19 corners or anything and, uh, they made a point of getting
20 to the bottom of it.

21 And yes, saying these all have been reported for
22 years, uh, the card should've never been issued and now
23 we just happen to have the disposition information also.
24 So --

25 MR. MCBRIDE: Are the severity of any of these

1 arrests preclude him from, uh, receiving a work card?

2 MR. ANTINORO: Um, let's double check on one real
3 quick. But I don't believe that --

4 MS. TARA: I don't think they are because they're
5 older than 10 years as well.

6 MR. ANTINORO: Uh, yeah. So yeah. The -- the only
7 one would've been -- it is 15 years. So it's outside that
8 10-year window.

9 MR. MCBRIDE: Okay. Definitely fell through the
10 cracks. Commissioner McGuffey?

11 MR. MCGUFFEY: Yeah. You know, uh, as a former
12 justice of the peace, I kind of learned a few things
13 about the tribal thing is sometimes they can be arrested
14 and once they're bailed out, they run back to their
15 reservation and you can't touch them.

16 MR. ANTINORO: Well, that's -- that's a whole
17 another matter. That has nothing to do with criminal
18 reporting. That's a matter of extradition.

19 MR. MCGUFFEY: It's still re- -- it's still
20 recorded, though, isn't it?

21 MR. ANTINORO: Yes.

22 MR. MCGUFFEY: Yes. Okay. I just kind of shared some
23 little --

24 MR. MCBRIDE: Okay.

25 MR. MCGUFFEY: -- my background.

1 MR. ANTINORO: This --

2 MR. MCGUFFEY: Uh --

3 MR. ANTINORO: This being a little bit different,
4 um, than the other two, I would make a motion to approve
5 the work card of Mr. Gem. Not the reapplication, but the
6 work card.

7 MR. MCGUFFEY: I -- I agree with you. He's been a
8 good citizen for -- for a long time now. So I have no
9 problem.

10 MR. MCBRIDE: Okay. Before we vote on it, call for
11 public comment.

12 MALE 2: I'm -- I'm going to weigh in just on one
13 thing.

14 MR. MCBRIDE: Okay. You go first and then we'll
15 bring Nicole up. She's got her hand up in the back.

16 MALE 2: Thank you.

17 MR. MCBRIDE: And Chris has got his hand up.

18 MALE 2: And I'd ask, again, if, you know, if the
19 sheriff agrees and -- and the remainder of the licensing
20 board agree, I would say again condition of future
21 applications, disclosing all --

22 MS. TARA: [Inaudible].

23 MALE 2: Okay.

24 MR. MCBRIDE: Okay. Nicole, you're next.

25 MS. BART: Nicole Bart; Storey County resident.

1 My comment isn't about this particular individual,
2 uh, but I have to make my comments on an agenda item
3 during an agenda item. So that's what I'm going to do.

4 My question -- I have a question first. Um, sheriff,
5 you had mentioned at the beginning before this started.

6 At what number of hours or what percent of your time your
7 office, uh, spends in doing brothel, uh, activities? What
8 -- what was that again?

9 MR. ANTINORO: Uh, of three administrative staff,
10 uh, combined total of about 40 percent. So you're looking
11 at a little over 2,000 hours a year.

12 MS. BART: Okay. And the other thing that you
13 mentioned you -- you stated how many brothel, uh,
14 applications or questionnaires you processed and I got 23
15 were denied and then eight came back and were, uh,
16 accepted. What was the first number? Twenty three out of
17 how many?

18 MR. ANTINORO: Uh, 142, if I remember correctly.

19 MS. BART: Okay. I'm basically going to make
20 comments as a taxpayer. What I'm hearing here today is if
21 this were -- I guess it is a for-profit business.

22 But the amount and level of rework regarding this
23 applications and the burden that it puts on our county
24 that is reflected in the amount of taxpayer dollars being
25 spent to fix problems is an outrage.

1 Why are my tax dollars going to fix and continually
2 fix and refix and fix and fix a problem that seemingly
3 never gets corrected? We have a lack of clarity,
4 apparently, on what's required, uh, information on
5 applications or questionnaires.

6 We've got a lack of understanding by the applicants
7 who, even if they, it seems to me based on what I'm
8 hearing, even if the application were clear as day seem
9 to frequently forget, omit, and just don't fill it out
10 correctly requiring rework on the part of the county.

11 We have a lack of quality control on the part of the
12 brothel itself who has something to gain by making sure
13 those applications are complete so that they get passed.
14 That's not happening, again, requiring rework on the part
15 of our county to which my tax dollars support. So that --
16 so that's a problem.

17 And then apparently because the applicant can't seem
18 to remember what they were arrested for, when they were
19 arrested, whether it was juvenile or not, have to rely on
20 any number of public sources, not government, to get
21 those records.

22 There's a lack of consistency there. It all equals
23 to taxpayer dollars being spent on stuff that is eating
24 up time that could be -- could be spent in other areas.
25 And this apparently has been going on for quite some

1 time.

2 I just hope that with today's over one hour of
3 discussion of details of why applications aren't filled
4 out correctly of the work that needs to be done, who's on
5 first, what -- that this gets solved.

6 This is ou- -- I'm a ta- -- this is my money being
7 spent going down the toilet fixing other people's
8 problems. Both sides need to fix this. This is an
9 outrage. Thank you.

10 MR. MCBRIDE: Thank you. Any other public comment?

11 MR. MCGUFFEY: I wouldn't lose sight on the fact
12 that they're paying a fee --

13 MS. BART: We --

14 MALE 2: -- to the county. And that -- that -- so
15 it's not taxpayer money. And then we're -- this is a
16 business --

17 MS. BART: [Inaudible].

18 MALE 2: This is -- this is a company that pays lots
19 of taxes to the county as well.

20 MS. TARA: Thank you. Thank you.

21 MR. MCBRIDE: Any other comments? Anybody else want
22 to weigh in? All right.

23 So the, uh, sheriff recommended that, uh, we approve
24 the work card for, uh, Stephan Gem. Actually --

25 MR. MCGUFFEY: I'll make a -- yeah. I'll --

1 MR. MCBRIDE: -- did you make a motion?
2 MR. ANTINORO: Yes. I did.
3 MR. MCBRIDE: The sheriff made the motion. So I need
4 a second on that.
5 MR. MCGUFFEY: I'll second that motion. Now, this is
6 to approve the work card.
7 MR. MCBRIDE: It is to approve the work card. Yes.
8 MR. MCGUFFEY: Okay. I'll second that motion.
9 MR. MCBRIDE: Okay. It's been moved and second to --
10 to, uh, go ahead and approve the appeal for the work card
11 for Stephan Gem. All those in favor, signify by saying
12 aye.
13 MR. MCGUFFEY: Aye.
14 MR. ANTINORO: Aye.
15 MR. MCBRIDE: Aye. It's unanimous. Thank you.
16 MR. GEM: Thank you.
17 MR. MCBRIDE: All right.
18 MR. ANTINORO: My job here is done.
19 MR. MCBRIDE: And I can count down. We only have a
20 couple of items left. You have been so patient.
21 Welcome back.
22 MR. L. GILMAN: Thank you very much.
23 MR. MCBRIDE: Okay. We'll move along now to
24 community development and planning. Item 21 is discussion
25 of possible action, variance 2015-029 by Hansen, Allen &

1 Luce [ph], Incorporated, attention Vern Condor [ph]
2 representing Refuse, Incorporated.

3 The applicant requests a variance for reduced
4 setback to three feet from the required 50 feet setback,
5 uh, for the placement of a proposed well house on the
6 property located at 2700 East Mustang Road, Mustang,
7 Storey County, Nevada, 8PM004-111-20.

8 Jason?

9 MR. VANHAVAL: Thank you. Good afternoon. Jason
10 Vanhavel with Storey County Planning. Uh, the applicant
11 is representing Refuge, Inc., which is also known as the
12 Lockwood Landfill.

13 What they would like to do is upgrade an existing
14 well house, uh, for a well that services their property.
15 The well is legal at the north end of -- of one of their
16 parcels.

17 On page three of the staff report is a -- is an area
18 map that can show -- shows the particular parcel in
19 question in the context of Lockwood and Mustang in the
20 area. The well itself is at the north end of the property
21 near the -- near the middle of it.

22 And then on page four of the staff report, there's a
23 map zoomed in closer to the area. You can see from the
24 area map that the properties in that area are generally
25 industrial in -- in use. The particular area where the

1 well is located is a small finger that protrudes out to
2 the north from the subject property. And that little
3 finger sticking out is to retain the well onto the
4 subject property.

5 Also as a follow up to the -- the -- the uses of the
6 land in the area are generally industrial, but not all
7 industrial, but generally. Uh, notices were sent out to
8 all of the land owners in the area and there was no, uh -
9 - no public comment back from those land owners.

10 On page five of the staff report, at the top you
11 have the schematic drawing of what the proposed well
12 house is going to look like on the edge of the property.

13 If you look closely at that schematic, near the
14 middle of -- of the house that's drawn, you see a
15 diagonal rectangular box. It's a bit smaller than the
16 proposed new well house. That diagonal rectangular box is
17 the existing well house over the top of the existing
18 well.

19 That existing well house is -- is non-conforming as
20 it is in that it doesn't conform to the required
21 setbacks. However, it is legal in that the well house was
22 in place before the setbacks were adopted as zoning.

23 So the -- so the requested new well house is going
24 to continue to encroach on the -- on the setback from the
25 requirement. The applicant would like to upgrade the --

1 upgrade the well and -- and get more use out of that
2 legal water to be more efficient with utilizing the
3 resources of the county.

4 Uh, in summary, the planning commission heard this
5 application and approved it. The appli- -- there's a
6 representative from the applicant here today to answer
7 any questions that you may have. And staff's
8 recommendation is for approval of this variance.

9 MR. MCBRIDE: Very good. Commissioners, do you have
10 any questions for Jason or from the applicant?

11 MR. L. GILMAN: I note that it was unanimously
12 approved by the planning commission as well.

13 MR. VANHAVER: Yes. Yes.

14 MR. MCGUFFEY: I have a comment where it's
15 appropriate.

16 MR. MCBRIDE: Is there any public comment?

17 MR. MCGUFFEY: Yes. I do.

18 MR. MCBRIDE: You're not public.

19 MR. MCGUFFEY: Okay.

20 MR. MCBRIDE: But you can -- you can give it to us.

21 MR. MCGUFFEY: Could we ask the applicant, uh, to
22 come to the podium? This is spontaneous and unplanned. So
23 I apologize. Otherwise, I would've given you courtesy of
24 a warning.

25 Uh, as a county manager, I'm going to go ahead and

1 recommend we follow the -- the recommendations of the
2 planning commission to approve it. But like you
3 [inaudible], a lot of strong message back to senior
4 management. Okay?

5 Throughout the tenure of our franchise agreement
6 with Waste Management specifically for the landfill, uh,
7 but also for refuse collection as well, we continue to
8 hit rough spots, items that weren't addressed.

9 Uh, recently, Mr. Martinelli communicated with me.
10 We probably re- -- need to readdress the size of dumpster
11 box services out at the tri center because they're not
12 using what was called for in terms of 20 yard or 40 yard.
13 They're using 30 yard or something like that.

14 I'm more than willing to work with stuff like that,
15 but that needs to be a two-way street. And that's meant
16 to be the emphasis on my -- on my message here.

17 Um, we recently changed processes with, uh, sewage
18 sludge coming out of the plant. And your general manager,
19 not of Waste Management here, not Mr. Martinelli, but, uh
20 -- going to draw a total blank. With Chris. I believe
21 your -- your, uh, landfill manager.

22 MR. CHRIS: Chris [inaudible].

23 MR. MCGUFFEY: Has -- has -- has taken the stance
24 that says, okay. That's going to cost you what I consider
25 to be a very high amount for something that we've either

1 ne- -- never paid before, uh, and what other similar
2 local governments are paying at a much reduced rate.

3 So I ask again that you take the spirit of whatever
4 this commission decides today as a whole, you know, back
5 to -- back to Chris and also definitely to Greg. And you
6 say we need open dialogues on a lot of fronts. Um, annual
7 trash days has turned into a bureaucratic nightmare for
8 us because we should've addressed it in the land -- in
9 the, uh -- in the refuse pickup and we didn't. Uh --

10 MALE 3: Do you mind if I write -- make a couple of
11 notes here?

12 MR. MCGUFFEY: No. Yeah. I'll be happy to give you a
13 card. But we need to open up this discussion. Um,
14 understanding that cooperation is a two-way street.

15 MALE 3: Absolutely. And -- and that -- that's the
16 position of the company. And -- and if -- if it hasn't
17 seemed that way, then we -- we will fix it.

18 MR. MCGUFFEY: Thank you.

19 MR. MCBRIDE: Any other public comment?

20 Uh, I attended the planning commission meeting as I,
21 uh, think I recall, uh, Commissioner McGuffey also did.
22 So, uh, I'm -- I'm very aware of, uh -- of the
23 applicant's, uh -- what they want to do out there.

24 And so, uh, with that being said, unless there's any
25 objections from the commissioners, I'll, uh, ask, uh,

1 Jason to, uh, read the, uh, uh, findings, uh, for a
2 motion, uh, for approval.

3 MR. VANHADEL: Thank you. Uh, Jason Vanhavel for the
4 record.

5 The findings for the motion of approval.

6 That because of special circumstances applicable to
7 the subject property, including shape size, typography,
8 or location of surrounding [inaudible] application of the
9 zoning ordinance would deprive the subject property of
10 privileges enjoyed by other properties in the vicinity
11 under the identical zoned classification.

12 And that the granting of this variance is necessary
13 for the preservation and enjoyment of -- of substantial
14 property rights of the applicant.

15 And that granting this variance will not, under
16 circumstances of this particular case, adversely effect to
17 a material degree the health or safety of persons
18 residing or working in the area of the subject property
19 and will not materially be detrimental to the public
20 welfare or material injurious or to property or
21 improvements in the area of the subject property.

22 And the proposed variance is in compliance with all
23 federal, Nevada state, and Storey County regulations.

24 And the proposed variance is in compliance with
25 Storey County code 17.03.140 variances and 17.35 heavy

1 industrial when all conditions of approval are met. And
2 the variance is in compliance with and supports the
3 goals, objectives, and recommendations of the Storey
4 County master plan.

5 MR. MCBRIDE: Very good. Thank you, Jason.

6 That being said, uh, call for a motion. That's my
7 page there. To approve this variance, 2015-029.

8 MR. L. GILMAN: I'll make a motion to approve the
9 variance, uh, 2015-029 by Hansen, Allen, & Luce, Inc.,
10 attention Vern Condor, representing Refuse, Inc. to the
11 applicant request a variance for the, uh, reduced setback
12 to three feet from the required 50 feet setback for the
13 placement of a proposed well house on the property
14 located at 2700 East Mustang Road, Mustang, Storey
15 County, Nevada 8PM004111-20.

16 MR. MCGUFFEY: I'll second that motion.

17 MR. MCBRIDE: It's moved and seconded to approve
18 variance 2015- -- excuse me -- 2015-029. All those in
19 favor, signify by saying aye.

20 MR. L. GILMAN: Aye.

21 MR. MCGUFFEY: Aye.

22 MR. MCBRIDE: Aye. Motion is unanimous.

23 MR. VANHAVER: Thank you.

24 MR. MCBRIDE: All right. Moving along now. Uh, item
25 number 22 and 23 have been continued until October the

1 20th at 10 a.m. in this room.

2 So we'll move on now to item number 24. This is a
3 possible action. Excuse me. Licensing board, second
4 readings.

5 MR. L. GILMAN: Thank you, Mr. Chairman.

6 On behalf of community development, um, they are
7 recommending continuation of items H, I, and J as they
8 appear on your agenda today. That is [inaudible], Inc.,
9 A-Z truck, marine, and RV. And risk -- Rich Doss, Inc.
10 all to be continued.

11 MR. MCBRIDE: All right. Then we have a motion to
12 continue H, I, and J.

13 MR. L. GILMAN: I so motion.

14 MR. MCGUFFEY: I'll second that motion.

15 MR. MCBRIDE: Move to second to continue H, I, and
16 J. All those in favor, signify by saying aye.

17 MR. L. GILMAN: Aye.

18 MR. MCGUFFEY: Aye.

19 MR. MCBRIDE: Aye. Motion carries unanimously.

20 MR. L. GILMAN: [Inaudible] community development
21 recommends approval of the following licenses listed as
22 items A through and G inclusive.

23 That would be A, American Mining and Tunneling, LLC;
24 B, P&L Fencing and Iron, LLC; C, Crop Production
25 Services, Inc.; uh, D, Soil Tech, Inc.; E, Gard- --

1 Gardener Refrigeration and Manufacturing; F, Neil [ph]
2 Adams Construction, Inc.; and G, Brickon [ph] Corporation
3 all to be approved.

4 MR. MCBRIDE: All right. I have a motion to approve
5 A through G inclusive.

6 MR. L. GILMAN: Also motion.

7 MR. MCGUFFEY: I'll second that motion.

8 MR. MCBRIDE: Move and seconded to approve A through
9 G. All those in favor, signify by saying aye.

10 MR. L. GILMAN: Aye.

11 MR. MCGUFFEY: Aye.

12 MR. MCBRIDE: Aye. Motion carries unanimously.

13 Moving along now to item number 25. Public comments?
14 Sheriff Antinoro.

15 MR. ANTINORO: Just returning back to the liquor
16 licensing issue for a moment for my own edification.

17 Uh, we've talked about reviewing or revisiting
18 brothel ordinance issues. I would ask that you find
19 gentlemen -- direct staff to reexamine the liquor
20 licensing ordinance so that we can clarify standards in
21 there because as it stands right now, the direction I
22 take away from today's meeting is that I shall
23 investigate any potential future applicants for liquor
24 licenses to the level that gaming investigates somebody.

25 And if that is not the case, then we need to clarify

1 what is the standard. So that would be my request.

2 MR. MCBRIDE: Very good. Thank you.

3 MR. MCGUFFEY: May -- may I ask what level are your
4 background checks taking [inaudible]?

5 MR. ANTINORO: Basically what it says in the
6 ordinance. We make sure they're not a convicted felon.
7 They're not a drug dealer.

8 They're not -- ties to organized crime and that they
9 have some semblance of financial order that they can
10 continue on with their business because, like I said,
11 during the earlier instance, there are other license
12 holders of liquor licenses in Storey County that have
13 some of those same problems, um, like I explained.

14 Gaming has a standard where they want to see
15 somebody's finances at this level. And we've never held
16 it to that high of a standard. But I take it from the
17 actions today, that's where we want it.

18 Which, if that is the case, as Commissioner McBride
19 knows, it's hard to get through a gaming background. Uh,
20 how many liquor licenses you think we're going to be
21 issuing in the future?

22 So we need to have clear expectations for both the
23 level of investigation you want conducted and so the
24 applicant fairly knows what to expect.

25 MALE 2: Can I comment?

1 MR. MCBRIDE: Sure.

2 MALE 2: Uh --

3 MR. MCBRIDE: Chime in.

4 MALE 2: If -- if staff's recommendation was any
5 basis for your consideration, you know, I want the record
6 to be very clear that I'm not basing on the fact that we
7 should hold individual applicants to exactly the same
8 scrutiny and processes gaming does.

9 My recommendation was made simply on the facts that
10 we were aware of the results of the gaming investigation
11 and background, we had documented observations of that
12 and therefore, we could -- could not nor should not, uh,
13 ignore that particular information at hand.

14 MR. ANTINORO: And not -- not being argumentative or
15 -- or trying to kick over a can of worms or anything, but
16 there's been past applicants we've also been aware of,
17 tax liens and lawsuits and judgments and financial issues
18 and other regulatory agencies or other regulatory
19 oversight problems. So again, uh, the only thing I can
20 equate it to is we're looking at that higher standard
21 because we have approved licenses in this very room for
22 other applicants where there had been those other issues.

23 MALE 1: I was just going to mention -- um, not to
24 argue or anything. I think it was very clear that the
25 board was given the legal standard out of the liquor

1 license ordinance, um, as to having, uh, the ability to,
 2 uh, carry out a successful business. They have the
 3 financial standing, basically, to do that. And I think
 4 the board took that, um, advice and used that in their
 5 decision. I think what's, um -- what you're talking about
 6 is the evidence that, uh, came from the hearing in front
 7 of, uh, gaming and I think, as Mr. Whitten said, that was
 8 available for the board to use in making their decision.

9 But the standard has -- is the standard that's in
 10 the -- in the code. And I think is the one that should've
 11 been used all along in the approval [inaudible] licenses.

12 MR. ANTINORO: Okay. And that's -- but again, for
 13 clarification on my part, we have sat in this very room
 14 and approved licenses where some of those same financial
 15 concerns were known by the board when the license was
 16 approved, but yet, the licensed was approved without near
 17 the pomp and circumstance as there was today.

18 MR. L. GILMAN: I might chime on this, but I don't
 19 think since I've been on the board we've had that come
 20 up. And we haven't had anything that re- -- involves a
 21 multimillion dollar deal either.

22 MR. ANTINORO: No. No. I can't say it's been since
 23 you've been on the board, but I --

24 MALE 1: So there's -- there's a whole -- there's a
 25 whole lot more moving parts over on this one.

1 MR. ANTINORO: Oh. I understand. But in -- in all
2 fairness, we need to clarify the ordinance.

3 MALE 1: I'm not disagreeing with you.

4 MR. ANTINORO: We have -- we have much more clearer
5 brothel ordinance, but yet we're going to go back in
6 because of a few issues with work cards, um, that the
7 ordinance was followed on.

8 MALE 1: Right.

9 MR. ANTINORO: We should clarify the -- the liquor
10 ordinance.

11 MALE 1: And I -- I would say I agree with that.
12 Having gone through it, uh, in preparation for this
13 meeting, I -- I think that's, uh, uh, something that
14 would be a high priority for this board to see gets done.

15 MR. L. GILMAN: I would -- I would agree as well.

16 MS. LANGER: And you know who works on [inaudible].

17 MR. L. GILMAN: Thank you. All right. Very good.

18 MR. MCGUFFEY: Do we need to add that to the
19 [inaudible]?

20 MS. STEPHENS: Please.


21 MR. ANTINORO: You know, I -- I think [inaudible]
22 got the message. We were already conversing with counsel
23 on this. We'll --

24 MR. MCBRIDE: Any -- any other public comment today?
25 Meeting's adjourned.

1 I, Chris Naaden, a transcriber, hereby declare under
2 penalty of perjury that to the best of my ability the
3 above 168 pages contain a full, true and correct
transcription of the tape-recording that I received
regarding the event listed on the caption on page 1.

4 I further declare that I have no interest in the
5 event of the action.

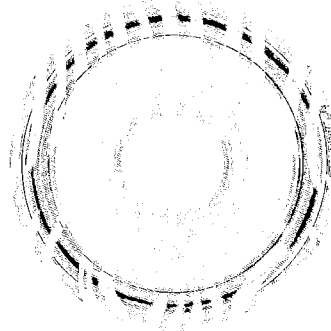
6 October 12, 2015
Chris Naaden

7 
8

9
10 (Storey County Board of County Commissioners, 10-6-15)
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Exhibit 4

Exhibit 4



10-6-2015
Storey BOCC Hearing #1
Storey BOCC Hearing #2

EXHIBIT 5

EXHIBIT 5

RECEIVED
CARSON CITY OFFICE

SEP 28 2015

HOLLAND & HART LLP

STATE OF NEVADA

BEFORE THE NEVADA GAMING CONTROL BOARD

In the Matter of Nonrestricted
Agenda Item
N15-0234

DEWING GAMING MANAGEMENT, LLC, dba
DELTA SALOON
18 S C ST
VIRGINIA CITY, NV 89440

and

DEWING GAMING MANAGEMENT, LLC, dba
BONANZA SALOON
27 N C ST
VIRGINIA CITY NV 89440

BRUCE EDWARD DEWING 100%
(Transferor)
VIRGINIA CITY GAMING, LLC 100%
(Transferee)
Sole Member

VINCENT MICHAEL MALFITANTO
Manager

APPLICATION FOR TRANSFER OF INTEREST

APPLICATION FOR LICENSURE AS SOLE
MEMBER

APPLICATION FOR LICENSURE AS MANAGER
OF DEWING GAMING MANAGEMENT, LLC

VIRGINIA CITY GAMING, LLC
3950 LONE TREE WAY
ANTIOCH, CA 94509

VINCENT MICHAEL MALFITANO 100%
Member/Manager

APPLICATION FOR REGISTRATION AS A
HOLDING COMPANY

APPLICATION FOR FINDING OF SUITABILITY
AS SOLE MEMBER AND MANAGER.

ORDER

Office of the Attorney General
Gaming Division
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511

1 APPLICATION OF PLEDGE EQUITY
2 SECURITIES OF DELTA SALOON, INC. TO
3 ANGELO PETRINI, IN CONJUNCTION WITH THE
4 SECOND DEED OF TRUST DATED
5 SEPTEMBER 20, 2014

6 *Or, in the alternative:*

7 VIRGINIA CITY GAMING, LLC
8 3950 LONE TREE WAY
9 ANTIOCH, CA 94509

10 VINCENT MICHAEL MALFITANO 100%
11 Member/Manager

12 APPLICATION FOR FINDING OF SUITABILITY
13 AS A LANDLORD OF BONANZA SALOON

14 APPLICATION FOR FINDING OF SUITABILITY
15 AS A SOLE MEMBER AND MANAGER

16 APPLICATION FOR FINDING OF SUITABILITY
17 AS A LENDER FOR DEWING GAMING
18 MANAGEMENT, LLC

19 APPLICATION FOR REGISTRATION AS A
20 HOLDING COMPANY OF DELTA SALOON, INC.

21 DELTA SALOON, INC.
22 (Virginia City Gaming, LLC – 100%)
23 18 S C ST
24 VIRGINIA CITY, NV 89440

VINCENT MICHAEL MALFITANO
President/Secretary/Treasurer/Director

APPLICATION FOR FINDING OF SUITABILITY
AS A LANDLORD OF DELTA SALOON

APPLICATION FOR FINDING OF SUITABILITY
AS AN OFFICER AND DIRECTOR

APPLICATION FOR FINDING OF SUITABILITY
AS A LENDER FOR DEWING GAMING
MANAGEMENT, LLC

THIS MATTER having come before the NEVADA GAMING CONTROL BOARD
(BOARD) during its hearing on August 5, 2015, in Carson City, Nevada, upon the applications
for transfer of interest in DEWING GAMING MANAGEMENT; LLC, dba DELTA SALOON and
dba BONANZA SALOON (DEWING) to VIRGINIA CITY GAMING, LLC (VIRGINIA CITY

1 GAMING); the application to license VIRGINIA CITY GAMING as the sole member of
2 DEWING; the application of VINCENT MICHAEL MALFITANO (MALFITANO) for licensure as
3 the manager of DEWING; the application of VIRGINIA CITY GAMING to be registered as a
4 holding company; the application of MALFITANO to be found suitable as the sole member and
5 manager of VIRGINIA CITY GAMING; and the application of VIRGINIA CITY GAMING to
6 pledge the equity securities of DEWING dba DELTA SALOON (collectively "licensing
7 applications"); AND, IN THE ALTERNATIVE, the application of VIRGINIA CITY GAMING to
8 be found suitable as the landlord of DEWING dba BONANZA SALOON; the application of
9 MALFITANO to be found suitable as the sole member and manager of VIRGINIA CITY
10 GAMING, the application of VIRGINIA CITY GAMING to be found suitable as a lender to
11 DEWING; the application of VIRGINIA CITY GAMING to be registered as a holding company
12 of DELTA SALOON, INC. (DELTA); the application of DELTA to be found suitable as the
13 landlord of DEWING dba DELTA SALOON; the application of MALFITANO to be found
14 suitable as an officer and director of DELTA; and the application of DELTA to be found
15 suitable as a lender to DEWING (collectively "landlord applications"); AND

16 WHEREAS THE BOARD, having received and reviewed all information relative thereto;
17 and having determined that VIRGINIA CITY GAMING, MALFITANO, and DELTA failed to
18 satisfy their burden of proving their qualifications to be licensed, registered, and/or found
19 suitable as required by NRS 463.170 and Nevada Gaming Commission Regulation 3.090;
20 AND

21 Specifically, the BOARD having found that VIRGINIA CITY GAMING, MALFITANO,
22 and DELTA failed to meet the requirements of NRS 463.170(3)(a) with regard to the licensing
23 applications by failing to prove themselves to have adequate business probity; Nevada
24 Gaming Commission Regulation 3.090(1)(c) with regard to the licensing applications and the
25 landlord applications by failing to prove themselves to have adequate business competence;
26 and, with regard to the licensing applications and the landlord applications, failing to disclose a
27 significant number of important items to the BOARD. AND SPECIFICALLY HAVING FOUND:

28

1 VIRGINIA CITY GAMING, MALFITANO, and DELTA filed applications with the BOARD
2 and failed to disclose numerous, recent, and financially significant items including, but not
3 limited to lawsuits, foreclosures, business interests, delinquent tax payments, tax liens, and
4 default notices. These are reasonable causes for denial of both the licensing applications and
5 the landlord applications.

6 VIRGINIA CITY GAMING, MALFITANO, and DELTA failed to carry their burdens to
7 demonstrate adequate business probity. This is demonstrated through nondisclosure of
8 business related issues to the BOARD, significant disclosed and nondisclosed litigation,
9 significant employment related issues from MALFITANO's assisted living business and his
10 prior dental practice, significant citations and actions by other regulatory agencies concerning
11 MALFITANO's assisted living business and his prior dental practice, the existence of
12 numerous prior tax liens, and the appearance of significant cash flow problems. These are
13 reasonable causes for denial of the licensing applications.

14 VIRGINIA CITY GAMING, MALFITANO, and DELTA failed to carry their burdens to
15 demonstrate adequate business competence. For the licensing applications, this is
16 demonstrated through nondisclosure of business related issues to the BOARD, significant
17 disclosed and nondisclosed litigation, significant employment related issues from
18 MALFITANO's assisted living business and his prior dental practice, significant citations and
19 actions by other regulatory agencies concerning MALFITANO's assisted living business and
20 his prior dental practice, the existence of numerous prior tax liens, and the appearance of
21 significant cash flow problems. For the landlord applications, this is demonstrated by
22 significant issues concerning foreclosures, delinquent tax payments, tax liens, and default
23 notices concerning the real property of MALFITANO or businesses owned by MALFITANO
24 which indicate MALFITANO is not suitable to be the landlord of a gaming establishment.
25 These are reasonable causes for denial of the licensing applications and the landlord
26 applications.

27 NRS 463.200 requires an applicant to file an application with complete details
28 concerning, at a minimum, his criminal history, antecedents, habits, character, business

1 activities, financial affairs, and business associates. Nevada Gaming Commission Regulation
2 4.040(2) sets out it is grounds for denying an application if an applicant willfully omits any
3 material fact on his application. NRS 463.170(3)(a) requires applicants to demonstrate
4 adequate business probity. Nevada Gaming Commission Regulation 3.090 requires
5 applicants to demonstrate adequate business competence for the role or position for which
6 the application is made. NRS 463.1405(3) sets out that the Board may recommend the denial
7 of any application to the Commission for any cause deemed reasonable by the BOARD.

8 Based on the significant nondisclosures and the failure to demonstrate adequate business
9 probity and/or business competence of VIRGINIA CITY GAMING, MALFITANO, and DELTA;
10 AND

11 Consequently, good cause appearing:

12 IT IS HEREBY ORDERED, upon unanimous vote, that a recommendation of the denial
13 of the licensing applications and the landlord applications of VIRGINIA CITY GAMING,
14 MALFITANO, and DELTA, be and hereby are issued to the Nevada Gaming Commission
15 pursuant to NRS 463.1405(3) and 463.210(3), said recommendations being based upon

16

17

18

19

20

21

22

23

24

25

26

27

28

1 NRS 463.0129, NRS 463.170, NRS 463.200, Nevada Gaming Commission Regulation 4.040,
2 and Nevada Gaming Commission Regulation 3.090.

3 DATED this 26th day of August, 2015.

4 NEVADA GAMING CONTROL BOARD

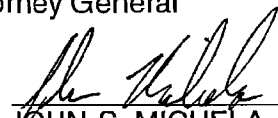
5
6 
A.G. BURNETT, Chairman

7
8 
SHAWN R. REID, Member

9
10 
TERRY JOHNSON, Member

11
12 Submitted by:

13 ADAM PAUL LAXALT
14 Attorney General

15 By: 
16 JOHN S. MICHELA
17 Senior Deputy Attorney General
18 Gaming Division
19 Attorneys for Nevada Gaming Control Board

20 **ORDER**

21 IT IS SO ORDERED in Agenda Item # N01-08-15, N15-0234.

22 DATED this 17 day of Sept ~~August~~ 2015.

23 NEVADA GAMING COMMISSION

24 
25 TONY ALAMO, M.D., Chairman
26
27
28

1 **CERTIFICATE OF MAILING**

2
3 I hereby certify that I am employed by the Nevada Gaming Control Board as an
4 Administrative Assistant to Marie Bell, the Executive Secretary of the Nevada Gaming
5 Commission and the Nevada Gaming Control Board, and that on the date shown below I
6 deposited for mailing at Carson City, Nevada, a true copy of the attached **ORDER OF**
7 **DENIAL** addressed to:

8
9 VIRGINIA CITY GAMING LLC
10 C/O SCOTT SCHERER
11 377 S NEVADA ST
12 CARSON CITY NV 89703

13 I further certify that I provided an e-mail copy to John Michela (jmichela@ag.nv.gov)
14 and Rebecca Zatarain (rzatarain@ag.nv.gov) Reno Attorney General's Office and Record's
15 and Research.

16 DATED this 23rd day of September, 2015.
17

18
19 
20 Kathi Franco, Administrative Assistant
21
22
23
24
25
26
27
28

EXHIBIT 6

EXHIBIT 6

STOREY COUNTY FIRE PROTECTION DISTRICT

Post Office Box 603
Virginia City, NV 89440
(775) 847-0954 Phone • (775) 847-0987 Fax
www.storeycounty.org

May 15, 2015

Virginia City Gaming, LLC
Dr. Vincent Malfitano, Managing Member
3950 Lone Tree Way
Antioch, Ca. 94509

RE: 27 North C Street VC – APN# 001-086-03 and APN#001-083-13&14. OWNER/STOREY COUNTY FIRE DISTRICT AGREEMENT

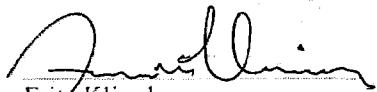
Dear Dr. Malfitano,

The following is specific to your project at 27 North C Street Bonanza Saloon – Bar – Casino - Restaurant within Virginia City Nevada.

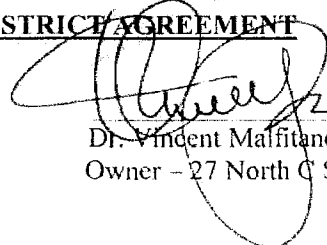
It has been agreed, that upon Virginia City Gaming, LLC, (VCG) receiving its Unrestricted Gaming License to operate this property, (VCG) will immediately move forward with these following conditions:

1. There must be a signed contract in place between the owner (Vince Malfitano) and a fire sprinkler contractor.
2. There must be a signed contract in place between the owner (Vince Malfitano) and a fire alarm contractor.
3. Plan review and permit fees for the fire sprinkler system must be submitted in conjunction with an application to the fire district upon submittal of design.
4. Sprinkler installation shall be completed and operational by **"Date to be determined"** once design submittal is approve with the fire alarm to be completed and operational within one month after the sprinkler installation.
5. Notification must be received by the water department (Public Works) that all hookup fees and contracts are in place.

OWNER/STOREY COUNTY FIRE DISTRICT AGREEMENT



Fritz Klingler
Fire Prevention Officer II / Plan Review



Dr. Vincent Malfitano
Owner – 27 North C Street

Station 1
145 North C Street
Virginia City, NV 89440
(775) 847 0954

Station 2
2610 Cartwright Road
Reno, NV 89521
(775) 847 0971

Station 3
500 Sam Clemens
Dayton, NV 89403
(775) 246 7979

Station 4
431 Canyon Way
Sparks, NV 89434
(775) 342 0220

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

Pursuant to SCR 5(B), I certify as follows:

I am employed in the City of Reno, County of Washoe, State of Nevada by the law offices of Holland & Hart LLP. My business address is 5441 Kietzke Lane, Second Floor, Reno, Nevada 89511. I am over the age of 18 years and not a party to this action.

On August 18, 2016, I electronically filed the foregoing **JOINT APPENDIX (VOLUME 1)**, with the Clerk of the Nevada Supreme Court via the Court's e-Flex system. Service will be made by e-Flex on all registered participants. In addition, I have served a copy of the above-named document via dropbox or similar program.

Anne Langer
Storey County District Attorney
Keith Loomis
Deputy District Attorney
P.O. Box 496 201 South C Street
Virginia City, NV 89440

/s/ Marcia Filipas

Marcia Filipas

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511